# K – Lawfare/Abolition

## 1NC Abolition Short

#### Legal remedies miss the forest for the trees—tinkering with legal doctrines legitimizes police racism and fails to eradicate the institutional root causes. The neg calls for abolition of police racism as a prerequisite to the aff.

McLeod 16 [ALLEGRA M. MCLEOD (Professor of Law, Georgetown University Law Center). “Introduction: Confronting the Carceral State.” *THE GEORGETOWN LAW JOURNAL* 1406 [Vol. 104:1405, 2016] http://georgetownlawjournal.org/files/2016/08/mcleod-carceral-state.pdf // WWXR]

Although legal remedies in the aftermath of police violence, like “pattern and practice” investigations pursued by the U.S. Department of Justice, may bring about certain improvements in police practices, Butler shows why civil rights and procedural remedies are inadequate to realize the more fundamental transformation necessary to redress racial profiling, excessive force, and antiblack racism. For example, Butler underscores that after federal investigations of police practices in Los Angeles, the level of policing actually increased substantially—resulting in more stops and frisks and more arrests.33 Instead, Butler contends the police should simply “stop it”—stop engaging in racially predatory policing and physical brutality in favor of more affirmative and less oppressive interventions to address significant crime.34 In this regard, Butler aligns his analysis with the Black Lives Matter movement and others who call for a third reconstruction, prison abolition, and effective dismantling of institutional racism and inequality.35 This abolitionist call serves as a framing provocation for this symposium to which we will return soon.36 Devon Carbado introduces another explanatory account of the persistence of police abuse of African-Americans. In Blue-on-Black Violence: A Provisional Model of Some of the Causes, Carbado demonstrates how various social factors converge to expose African-Americans to excessive police contact and scrutiny: racial segregation, relative economic disenfranchisement, racial bias, the vast criminalization of minor misconduct, and minimal constraints on policing of petty street-level infractions.37 This increased exposure to police surveillance renders African-Americans more vulnerable to police violence, primarily because they are subject to more frequent police encounters.38 At the same time, the organizational culture of police departments often implicitly encourages the use of force. After police have used force—even deadly force—judges and other legal actors evaluating police conduct frequently regard the use of force as legally justifiable. Legal doctrines such as qualified immunity further inhibit successful legal challenges to police abuse while immunizing police from financial consequences for their actions.39 In combination, these barriers to legal sanctions or other remedies communicate to police officers that there will be minimal penalties, if any, for a failure to exercise care in deploying violent force.40 Carbado suggests that these features together render blue-on-black violence a structural problem requiring structural reform, rather than measures that address only the behavior of errant officers.41

#### The role of the ballot is to political engage with prison abolition. Political discourse in scholarship must promote a politics of imagination of envisioning the end of the prison. Public discourse in the academy serves a unique role, Rodríguez 10

Professor and Chair of Ethnic Studies @ UC Riverside [Dr. Dylan Rodríguez, “The Terms of Engagement: Warfare, White Locality, and Abolition,” Critical Sociology 36(1) pg. 151-173

What were the fundamental concerns of our progressive organizations and movements during this time, and were they willing to comprehend and galvanize an effective, or even viable opposition to the white supremacist state’s terms of engagement (that is, warfare)? This radical accountability reflects a variation on anticolonial liberation theorist Frantz Fanon’s memorable statement to his own peers, comrades, and nemeses: Each generation must discover its mission, fulfill it or betray it, in relative opacity. In the underdeveloped countries preceding generations have simultaneously resisted the insidious agenda of colonialism and paved the way for the emergence of the current struggles. Now that we are in the heat of combat, we must shed the habit of decrying the efforts of our forefathers or feigning incomprehension at their silence or passiveness. (Fanon 2004 [1963]: 146) Lest we fall victim to a certain political nostalgia that is often induced by such illuminating Fanonist exhortations, **we** ought to clarify the premises of the social ‘mission’that our generation of USA-based progressive organizing has undertaken. In the vicinity of the constantly retrenching social welfare apparatuses of the US state, much of the most urgent and immediate work of community-based organizing has revolved around service provision. Importantly, this pragmatic focus also builds a certain progressive ethic of voluntarism that constructs the model activist as a variation on older liberal notions of the ‘good citizen’. Following Fanon, **the question is whether and how this mission ought to be fulfilled or betrayed**. To respond to **this political problem requires an analysis** and conceptualization of ‘the state’ **that is far more complex** and laborious **than we usually allow in our** ordinary **rush of obligations to build campaigns**, organize communities, and write grant proposals. **We require**, in other words**, a** scholarly activist framework **to understand that the state** can and must be radically confronted on multiple fronts by an abolitionist social theory. Effectively contradicting, decentering, and transforming the popular consensus (for example, destabilizing assertive assumptions common to progressive movements and organizations such as ‘we have to control/get rid of gangs,’ ‘we need prisons,’ or ‘we want¶ better police’) is, in this context, dangerously difficult work. Although the truth of the matter is that the establishment US left, in ways both spoken and presumed, may actually agree with the political, moral, and ideological premises of domestic warfare. Leaders as well as rank-and-file members in avowedly **progressive[s]** organizations can and **must reflect on how they might actually be supporting and reproducing existing forms of racism, white supremacy, state violence, and domestic warfare in the process of throwing their resources behind** **what they perceive as ‘**winnable victories**’**, in the lexicon of venerable community organizer Saul Alinsky. Arguably, **it is precisely the creative and pragmatic work of** political fantasy/political vision/political imagination **that is the** most underdeveloped **dimension of the** US establishment **left’s organizational modus operandi and public discourse**. While a full discussion is best left for sustained collective discussion, **we might consider the** **post**-19**60s** **history of** the reactionary, neoconservative, and Christian fundamentalist US right, **which has fully and**¶ **eagerly engaged in these political labors of** fantasy/vision/imagination**, and has seen the desires of their wildest dreams met or exceeded in their struggles for political and cultural hegemony**. **It might be useful to begin by thinking of ourselves as existing in a relationship** **of deep historical obligation to** the long and recent, faraway and nearby historical legacies of **radical, revolutionary, and liberationist struggles that have made the abolition of oppressive violence their most immediate and fundamental political desire**. Pg. 165-170

## 1NC Abolition Long

#### Legal remedies miss the forest for the trees—tinkering with legal doctrines legitimizes police racism and fails to eradicate the institutional root causes. The neg calls for abolition of police racism as a prerequisite to the aff.

McLeod 16 [ALLEGRA M. MCLEOD (Professor of Law, Georgetown University Law Center). “Introduction: Confronting the Carceral State.” *THE GEORGETOWN LAW JOURNAL* 1406 [Vol. 104:1405, 2016] http://georgetownlawjournal.org/files/2016/08/mcleod-carceral-state.pdf // WWXR]

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#### **Jurisprudential and legislative reform creates a vacuous notion of accountability that misses the situation on the ground—police are an occupying force and the face of the CJS. Whatever law scholars do in their ivory tower, people are dying now.**

Smith 16 [Smith, Johnathan. Associate Dean, University of DC School of Law. Former litigation chief of Civil Rights in the US Department of Justice. “CLOSING THE GAP BETWEEN WHAT IS LAWFUL AND WHAT IS RIGHT IN POLICE USE OF FORCE JURISPRUDENCE BY MAKING POLICE DEPARTMENTS MORE DEMOCRATIC INSTITUTIONS” Michigan Journal of Race & Law 21.315 (YEAR). // WWJL]

There are many causes for this breakdown in trust.10 Police officers are the faces of a criminal justice system that has dramatically disproportionate negative effects based on race and economic status. Practices like stop-and-frisk and broken windows policing12 have put people of color in hostile contact with law enforcement on a daily basis. The imposition of excessive fines and court fees in some communities has created severe criminal consequences often for traffic or other minor offenses.13 These practices have driven a wedge between the police and those most likely to be policed. When federal civil rights investigators entered a Cleveland, Ohio, police substation, they found a sign that read “Forward Operating Base.”14 The investigators noted that “[t]his reference to a military outpost in enemy territory was posted in the station’s vehicle bay.”15 The sign, in a graphic way, illustrates that far too often both police and communities believe that law enforcement is a hostile occupying force. A significant factor in this mistrust is that police conduct is infrequently reviewed, and as a result, police officers and police departments are not held accountable for abuses. Judicial decisions are responsible, at least in part, for substantially erod[e]ing the protections provided by the Constitution against the excessive use of force by police.16 As is demonstrated below, the Fourth Amendment is increasingly interpreted as creating very limited rights for persons subjected to the use of force by police. Moreover, the Supreme Court has constructed procedural barriers, including strict standing rules and qualified immunity, to make judicial review of police practices difficult.17 The Court has placed outside of judicial review police conduct that communities perceive as excessive and that erodes the trust between these communities and law enforcement officers.18 The Court’s jurisprudence in this arena has created a substantial gap between what is lawful and what is right. Moreover, criminal prosecutions, which are critical for individual accountability, are rare19 and thereby fail to hold police institutions accountable for systemic failures. As the law tilts heavily in favor of officers, prosecutors are reluctant to charge and juries are hesitant to convict. Civil and criminal legal actions that create police accountability are instrumental to reform. However, it is inherently insufficient to address the national crisis in policing. This Article will describe the jurisprudential and practical limits to relying on the civil and criminal legal processes to control police behavior and create accountability and will offer recommendations on the need to democratize police departments through transparency and robust community oversight. Part I will explore barriers to private civil litigation and to criminal prosecutions in achieving reform. Part II will offer recommendations on measures to ensure that police departments are responsive to a meaningful democratic process that can overcome some of the failures of the current systems of accountability.

#### Voting negative is a pedagogical act. Your ballot contributes to a larger continuum of liberation movements that are not constrained by what is “practical” or “possible.” A radical break from the prison and the police is prior to any other question---policy changes need to be put on the backburner. As teachers you are obligated to betray the modern technologies of genocide management present in the prison.

Rodríguez 10

(Dylan, Professor and Chair of the Department of Ethnic Studies at UC Riverside, “The Disorientation of the Teaching Act: Abolition as Pedagogical Position,” Radical Teacher, Number 88, Summer 2010, Project MUSE)//a-berg

Finally, the horizon of the possible is only constrained by one’s pedagogical willingness to locate a particular political struggle (here, prison abolition) within the long and living history of liberation movements. In this context, “prison abolition” can be understood as one important strain within a continuously unfurling fabric of liberationist political horizons, in which the imagination of the possible and the practical is shaped but not limited by the specific material and institutional conditions within which one lives. It is useful to continually ask: on whose shoulders does one sit, when undertaking the audacious identifications and political practices endemic to an abolitionist pedagogy? There is something profoundly indelible and emboldening in realizing that one’s “own” political struggle is deeply connected to a vibrant, robust, creative, and beautiful legacy of collective imagination and creative social labor (and of course, there are crucial ways of comprehending historical liberation struggles in all their forms, from guerilla warfare to dance). While I do not expect to arrive at a wholly satisfactory pedagogical endpoint anytime soon, and am therefore hesitant to offer prescriptive examples of “how to teach” within an abolitionist framework, I also believe that rigorous experimentation and creative pedagogical radicalism is the very soul of this praxis. There is, in the end, no teaching formula or pedagogical system that finally fulfills the abolitionist social vision, there is only a political desire that understands the immediacy of struggling for human liberation from precisely those forms of systemic violence and institutionalized dehumanization that are most culturally and politically sanctioned, valorized, and taken for granted within one’s own pedagogical moment. To refuse or resist this desire is to be unaccountable to the historical truth of our moment, in which the structural logic and physiological technologies of social liquidation (removal from or effective neutralization within civil society) have merged with history’s greatest experiment in punitive human captivity, a linkage that increasingly lays bare racism’s logical outcome in genocide.[18](http://muse.jhu.edu/journals/radical_teacher/v088/88.rodriguez.html#f18) Abolitionist Position and Praxis Given the historical context I have briefly outlined, and the practical-theoretical need for situating an abolitionist praxis within a longer tradition of freedom struggle, I contend that there can be no liberatory teaching act, nor can there be an adequately critical pedagogical practice, that does not also attempt to become an abolitionist one. Provisionally, I am conceptualizing abolition as a praxis of liberation that is creative and experimental rather than formulaic and rigidly programmatic. Abolition is a “radical” political position, as well as a perpetually creative and experimental pedagogy, because formulaic approaches cannot adequately apprehend the biopolitics, dynamic statecraft, and internalized violence of genocidal and proto-genocidal systems of human domination. As a productive and creative praxis, this conception of abolition posits the material possibility and historical necessity of a social capacity for human freedom based on a cultural-economic infrastructure that supports the transformation of oppressive relations that are the legacy of genocidal conquest, settler colonialism, racial slavery/capitalism,[19](http://muse.jhu.edu/journals/radical_teacher/v088/88.rodriguez.html#f19) compulsory hetero-patriarchies, and global white supremacy. In this sense, abolitionist praxis does notsingularly concern itself with the “abolition of the prison industrial complex,” although it fundamentally and strategically prioritizes the prison as a central site for catalyzing broader, radical social transformations. In significant part, this suggests envisioning and ultimately constructing “a constellation of alternative strategies and institutions, with the ultimate aim of removing the prison from the social and ideological landscape of our society.”[20](http://muse.jhu.edu/journals/radical_teacher/v088/88.rodriguez.html#f20) In locating abolitionist praxis within a longer political genealogy that anticipates the task of remaking the world under transformed material circumstances, this position refracts the most radical and revolutionary dimensions of a historical Black freedom struggle that positioned the abolition of “slavery” as the condition of possibility for Black—hence “human”—freedom. To situate contemporary abolitionism as such is also to recall the U.S. racist state’s (and its liberal allies’) displacement and effective political criminalization of Black radical abolitionism through the 13th Amendment’s 1865 recodification of the slave relation through the juridical reinvention of a racial-carceral relation: Given the institutional elaborations of racial criminalization, policing, and massive imprisonment that have prevailed on the 13th Amendment’s essential authorization to replace a regime of racist chattel slavery with racist carceral state violence, it is incumbent on the radical teacher to assess the density of her/his entanglement in this historically layered condition of [End Page 15] violence, immobilization, and capture. Prior to the work of formulating an effective curriculum and teaching strategy for critically engaging the prison industrial complex, in other words, is the even more difficult work of examining the assumptive limitations of any “radical pedagogy” that does not attempt to displace an epistemological and cultural common sense in which the relative order and peace of the classroom is perpetually reproduced by the systemic disorder and deep violence of the prison regime. In relation to the radical challenging of common sense discussed above, another critical analytical tool for building an abolitionist pedagogy entails the rigorous, scholarly dismantling of the “presentist” and deeply ahistorical understanding of policing and prisons. Students (and many teachers) frequently enter such dialogues with an utterly mystified conception of the policing and prison apparatus, and do not generally understand that 1) these apparatuses in their current form are very recent creations, and have not been around “forever”; and 2) the rise of these institutional forms of criminalization, domestic war, and mass-scale imprisonment forms one link in a historical chain of genocidal and proto-genocidal mobilizations of the racist state that regularly take place as part of the deadly global process of U.S. nation-building. In other words, not only is the prison regime a very recent invention of the state (and therefore is neither a “permanent” nor indestructible institutional assemblage), but it is institutionally and historically inseparable from the precedent and contemporaneous structures of large-scale racist state violence. Asserting the above as part of the core analytical framework of the pedagogical structure can greatly enable a discussion of abolitionist possibility that thinks of the critical dialogue as a necessary continuation of long historical struggles against land conquest, slavery, racial colonialism, and imperialist war. This also means that our discussions take place within a longer temporal community with those liberation struggles, such that we are neither “crazy” nor “isolated.” I have seen students and teachers speak radical truth to power under difficult and vulnerable circumstances based on this understanding that they are part of a historical record. I have had little trouble “convincing” most students—across distinctions of race, class, gender, age, sexuality, and geography—of the gravity and emergency of our historical moment. It is the analytical, political, and practical move toward an abolitionist positionality that is (perhaps predictably) far more challenging. This is in part due to the fraudulent and stubborn default position of centrist-to-progressive liberalism/reformism (including assertions of “civil” and “human” rights) as the only feasible or legible response to reactionary, violent, racist forms of state power. Perhaps more troublesome, however, is that this resistance to engaging with abolitionist praxis seems to also derive from a deep and broad epistemological and cultural disciplining of the political imagination that makes liberationist dreams unspeakable. This disciplining is most overtly produced through hegemonic state and cultural apparatuses and their representatives (including elected officials, popular political pundits and public intellectuals, schools, family units, religious institutions, etc.), but is also compounded through the pragmatic imperatives of many liberal and progressive nonprofit organizations and social movements that reproduce the political limitations of the [End Page 16] nonprofit industrial complex.[22](http://muse.jhu.edu/journals/radical_teacher/v088/88.rodriguez.html#f22) In this context, the liberationist historical identifications hailed by an abolitionist social imagination also require that such repression of political-intellectual imagination be fought, demystified, and displaced. Perhaps, then, there is no viable or defensible pedagogical position other than an abolitionist one. To live and work, learn and teach, and survive and thrive in a time defined by the capacity and political willingness to eliminate and neutralize populations through a culturally valorized, state sanctioned nexus of institutional violence, is to better understand why abolitionist praxis in this historical moment is primarily pedagogical, within and against the “system” in which it occurs. While it is conceivable that in future moments, abolitionist praxis can focus more centrally on matters of (creating and not simply opposing) public policy, infrastructure building, and economic reorganization, the present moment clearly demands a convening of radical pedagogical energies that can build the collective human power, epistemic and knowledge apparatuses, and material sites of learning that are the precondition of authentic and liberatory social transformations. The prison regime is the institutionalization and systemic expansion of massive human misery. It is the production of bodily and psychic disarticulation on multiple scales, across different physiological capacities. The prison industrial complex is, in its logic of organization and its production of common sense, at least proto-genocidal. Finally, the prison regime is inseparable from—that is, present in—the schooling regime in which teachers are entangled. Prison is not simply a place to which one is displaced and where one’s physiological being is disarticulated, at the rule and whim of the state and its designated representatives (police, parole officers, school teachers). The prison regime is the assumptive premise of classroom teaching generally. While many of us must live in labored denial of this fact in order to teach as we must about “American democracy,” “freedom,” and “(civil) rights,” there are opportune moments in which it is useful to come clean: the vast majority of what occurs in U.S. classrooms—from preschool to graduate school—cannot accommodate the bare truth of the proto-genocidal prison regime as a violent ordering of the world, a primary component of civil society/school, and a material presence in our everyday teaching acts. As teachers, we are institutionally hailed to the service of genocide management, in which our pedagogical labor is variously engaged in mitigating, valorizing, critiquing, redeeming, justifying, lamenting, and otherwise reproducing or tolerating the profound and systemic violence of the global-historical U.S. nation building project. As “radical” teachers, we are politically hailed to betray genocide management in order to embrace the urgent challenge of genocide abolition. The short-term survival of those populations rendered most immediately vulnerable to the mundane and spectacular violence of this system, and the long-term survival of most of the planet’s human population (particularly those descended from survivors of enslavement, colonization, conquest, and economic exploitation), is significantly dependent on our willingness to embrace this form of pedagogical audacity.

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What were the fundamental concerns of our progressive organizations and movements during this time, and were they willing to comprehend and galvanize an effective, or even viable opposition to the white supremacist state’s terms of engagement (that is, warfare)? This radical accountability reflects a variation on anticolonial liberation theorist Frantz Fanon’s memorable statement to his own peers, comrades, and nemeses: Each generation must discover its mission, fulfill it or betray it, in relative opacity. In the underdeveloped countries preceding generations have simultaneously resisted the insidious agenda of colonialism and paved the way for the emergence of the current struggles. Now that we are in the heat of combat, we must shed the habit of decrying the efforts of our forefathers or feigning incomprehension at their silence or passiveness. (Fanon 2004 [1963]: 146) Lest we fall victim to a certain political nostalgia that is often induced by such illuminating Fanonist exhortations, **we** ought to clarify the premises of the social ‘mission’that our generation of USA-based progressive organizing has undertaken. In the vicinity of the constantly retrenching social welfare apparatuses of the US state, much of the most urgent and immediate work of community-based organizing has revolved around service provision. Importantly, this pragmatic focus also builds a certain progressive ethic of voluntarism that constructs the model activist as a variation on older liberal notions of the ‘good citizen’. Following Fanon, **the question is whether and how this mission ought to be fulfilled or betrayed**. To respond to **this political problem requires an analysis** and conceptualization of ‘the state’ **that is far more complex** and laborious **than we usually allow in our** ordinary **rush of obligations to build campaigns**, organize communities, and write grant proposals. **We require**, in other words**, a** scholarly activist framework **to understand that the state** can and must be radically confronted on multiple fronts by an abolitionist social theory. Effectively contradicting, decentering, and transforming the popular consensus (for example, destabilizing assertive assumptions common to progressive movements and organizations such as ‘we have to control/get rid of gangs,’ ‘we need prisons,’ or ‘we want¶ better police’) is, in this context, dangerously difficult work. Although the truth of the matter is that the establishment US left, in ways both spoken and presumed, may actually agree with the political, moral, and ideological premises of domestic warfare. Leaders as well as rank-and-file members in avowedly **progressive[s]** organizations can and **must reflect on how they might actually be supporting and reproducing existing forms of racism, white supremacy, state violence, and domestic warfare in the process of throwing their resources behind** **what they perceive as ‘**winnable victories**’**, in the lexicon of venerable community organizer Saul Alinsky. Arguably, **it is precisely the creative and pragmatic work of** political fantasy/political vision/political imagination **that is the** most underdeveloped **dimension of the** US establishment **left’s organizational modus operandi and public discourse**. While a full discussion is best left for sustained collective discussion, **we might consider the** **post**-19**60s** **history of** the reactionary, neoconservative, and Christian fundamentalist US right, **which has fully and**¶ **eagerly engaged in these political labors of** fantasy/vision/imagination**, and has seen the desires of their wildest dreams met or exceeded in their struggles for political and cultural hegemony**. **It might be useful to begin by thinking of ourselves as existing in a relationship** **of deep historical obligation to** the long and recent, faraway and nearby historical legacies of **radical, revolutionary, and liberationist struggles that have made the abolition of oppressive violence their most immediate and fundamental political desire**. Pg. 165-170

#### Only an abolitionist pedagogy that challenges the invisibility of domestic state violence can build a non-killing future world

Loyd 11

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The relative invisibility **of domestic state violence** vis-à-vis war constrains the imagination and imperative **for building just, free, and peaceful futures, internationally and domestically**. Domestic practices of state violence (namely policing and **imprisonment**) are frequently treated as inherently more legitimate than war-making because these practices are founded in popular sovereignty. Yet, these **institutions reproduce racial, gender, class, and sexual relations of hierarchy and domination that contribute to family separation, community fragmentation, labor exploitation and premature death**. **Building a** nonkilling future, thus, **means challenging** the state’s organization for violence that are practiced domestically in the form of defense (military-industrial complex) and in the form of **prisons** and policing **as the “answer” to social and economic problems** ranging from poverty, to boisterous youth, to human migration, and drug use (Braz, 2008; Gilmore and Gilmore, 2008). It takes sustained ideological work to contain “war” as the only form of state violence and to contain the good sense that war’s harms cannot be confined to weapons, neatly demarcated battlefields, and declarations of wars’ conclusions. **Building critiques of and movements against state violence means** confronting hegemonic frames **that understand state violence as exceptional, rather than as normal practices structuring** both international relations and **domestic governance.** It means asking why denunciations of the “war at home” sound hyperbolic to some Americans. It means asking in what ways domestic practices of state violence are practiced elsewhere and international practices are imported. Such cross-boundary traffic in practices (and personnel) of policing, imprisonment and war-making are important for showing that the lines between foreign and domestic, war and peace, civilian and military are constantly blurred. This in turn highlights the tremendous ideological work that goes into maintaining these boundaries, and the material consequences such geographical imaginations have on people’s lives and the places in which they live. This is not to say that the war at home and war abroad are the same or necessarily have the same intensity. Rather it is to trace the frame of exceptionalism that structures the relations between these places in ways that facilitate violence in both places. As we have seen, **the invisibility and naturalization of** state violence in the form of **the prison is** one of **the most overlooked sites of** American exceptionalism, critiques **of US state violence**, and of antiwar efforts. **For precisely this reason, attentions should be placed** **on challenging the prison regime** as one aspect of building nonkilling futures. For this historical moment, Dylan Rodríguez argues that **undoing the naturalization** of such commonplace violence, **centers squarely on an** abolitionist pedagogy **that works “against the assumptive necessity, integrity, and taken-for-grantedness of prisons**, policing, **and the normalized state violence they reproduce**” (2010: 9). **Dismantling prisons is about dismantling relations of white supremacy, heteropatriarchy and economic exploitation that undermine the possibilities for freedom and human flourishing.** **Prison abolition has an** expansive antiviolence imperative **that necessarily demands an end to connected practices of war, colonial dispossession, and imperial rule. Abolitionist imaginations** challenge violent suppression **of human freedom and offer** important visions for forging links **among different sectors of anti-violence organizing**. **We might look for example to** **the** nineteenth century international **slavery abolition movement** **or** more recently to **the nonaligned movement** of (formerly) colonized nations, **which regarded ending the Cold War as a condition for political autonomy and fulfilling human needs** (Prashad 2007). Likewise, for civil rights organizers in the US South, the abolition of Cold War annihilation was predicated on domestic peace, which could only be won through freedom, that is overthrowing the legal and extralegal relations of white supremacy (Loyd, 2011). Creating the possibilities for nonviolent resolution of social conflict is a recognized aim of antiwar or peace organizing. **Prison abolition** too **is premised on dismantling the prison as a solution for social conflict and for creating the possibilities for freedom and human flourishing.** As Andrew Burridge, Matt Mitchelson, and I (2009-2010) write: “**Building economies and community institutions that foster creativity, care, self-determination and mutual responsibility are among the abolitionist visions** for a just society. That is, **abolition is a vision for the future that can guide current action for making communities that create real safety and meet people’s needs**.” **Abolition links dreams of peace and freedom.** **Abolitionism critically analyzes how dominant categorizations of governance and sovereignty are premised on** **(categorical) unfreedom. Making these links** in practice **means recognizing how the** prison underpins violent domination on a world scale. **Abolition** is thereby **offers** imperative theoretical vision and practical means **for building nonkilling futures**. Pg. 119-121

## 1NC Lawfare

#### The aff displaces the political struggle against police violence into the legal arena—this is part and parcel of a global culture of legality that treats the redress of violence as reducible to a cash payment. But normative jurisprudence is locked in a dialectic with violence—it relies on and feeds into the perpetuation of violent disorder and lawfare, the use of legal instruments to legitimate coercion—this turns case and outweighs since it erases the ability of marginal subjects to be anything other than legally recognized—this eliminates the possibility of resisting lawfare in the future, which outweighs on scope.

Comaroff and Comaroff 6 [Comaroff, Jean (Bernard E. and Ellen C. Sunny Distinguished Service Professor of Anthropology at the University of Chicago and Honorary Professor at the University of Cape Town) and John L. Comaroff (Harold H. Swift Distinguished Service Professor of Anthropology at the University of Chicago, a Senior Research Fellow at the American Bar Foundation, and Honorary Professor at the University of Cape Town). “Law and Disorder in the Postcolony: An Introduction.” *Law and Disorder in the Postcolony*. Eds. Jean Comaroff and John L. Comaroff. Chicago: University of Chicago Press, 2006. Print. pp. 29–35 // WWXR 2016-5-20]

It is not just the politics of the present that is being judicialized. The past, too, is increasingly caught up in the dialectic of law and disorder: hence the mobilization of legalities to fight anti-imperialist battles anew, which has compelled the British government to answer under oath for having committed acts of unspeakable atrocity in its African “possessions” (D. Anderson 2005; Elkins 2005), for having killed local leaders at whim, and for having unlawfully alienated territory from one African people to another. By these means is colonialism, tout court, rendered criminal. Hauled before a judge, history is made to break its silences, to speak in tongues hitherto unheard and untranslated, to submit itself to the scales of justice at the behest of those who suffered it, of its most abject subjects— and to be reduced to a cash equivalent, payable as the official tender of damage, dispossession, loss, trauma. In the process, too, it becomes clear that what imperialism is being indicted for, above all, is its commission of lawfare: its use of its own rules—of its duly enacted penal codes, its administrative law, its states of emergency, its charters and mandates and warrants, its norms of engagement—to impose a sense of order upon its subordinates by means of violence rendered legible, legal, and legitimate by its own sovereign word. And also to commit its own ever-socivilized, patronizing, high-minded forms of kleptocracy. Lawfare—the resort to legal instruments, to the violence inherent in the law, to commit acts of political coercion, even erasure (J. L. Comaroff 2001)—is equally marked in postcolonies, of course. As a species of political displacement, it becomes most readily visible when those who act in the name of the state conjure with legalities to act against some or all of its citizens. Any number of examples present themselves, but the most infamously contemporary is, again, to be found in Zimbabwe. The Mugabe regime has consistently passed laws in parliament intended to silence its critics and then has proceeded to take violent action against them; the media regulations put in place just after the presidential election of 2002 are a case in point. Operation Murambatsvina (“Drive out Trash”), which has razed informal settlements and markets, forced people out of urban areas, and caused a great deal of hardship, ill-health, and death under the banner of “slum clearance,” has recently taken this practice to unprecedented heights—or depths. The most persuasive explanation for the operation, says Allister Sparks,86 is that it is, first, an act of vengeance against urban Zimbabweans who voted overwhelmingly for the opposition Movement for Democratic Change in the national election of March 2005; second, an attempt to preempt uprisings on the part of a largely out-of-work population desperately short of food and fuel; and, third, a strike against the black market that has arisen in the informal sector to trade in the foreign currency sent back by citizens laboring abroad. Murambatsvina, according to the Mugabe regime, is merely an application of the law of the land: it is a righteous effort to demolish “illegal structures.” For critics, on the other hand, it is not that at all. As one Caribbean journalist put it, in a phrase especially apt here, it is “political criminality.”87 Note, in this respect, how the Zimbabwean embassy in Jakarta responded to a censorious piece in an Indonesian newspaper: The rapid development of illegal informal small-scale industries, trading centers and outbuildings in all the cities and towns had destroyed the status of these urban centers and outstretched the capacity of the municipalities to provide adequate services. The inability of the urban local authorities to levy most of the illegal vendors created an untenable situation that victimized everybody, including the licenced traders. Many illegal activities such as the hoarding of basic commodities and dealing in gold and foreign currency were thriving in the illegal informal sector. Over 22,000 people have been arrested for various offenses during the ongoing exercise. . . . The court also ruled that most of the structures were illegal as the owners did not follow the set approval channels with the respective local authorities. The word “illegal” appears five times in this passage. Lawfare can be limited or it can reduce people to “bare life”; in some postcolonies, it has mutated into a deadly necropolitics with a rising body count (see chapter 9). But it always seeks to launder brute power in a wash of legitimacy, ethics, propriety. Sometimes it is put to work, as it was in many colonial contexts, to make new sorts of human subjects; sometimes it is the vehicle by which oligarchs seize the sinews of state to further their economic ends; sometimes it is a weapon of the weak, turning authority back on itself by commissioning the sanction of the court to make claims for resources, recognition, voice, integrity, sovereignty.89 But ultimately, it is neither the weak nor the meek nor the marginal who predominate in such things. It is those equipped to play most potently inside the dialectic of law and disorder. This, to close a circle opened in the preface, returns us to Derrida, Agamben, and Benjamin: to the notion that the law originates in violence and lives by violent means, the notion, in other words, that the legal and the lethal animate and inhabit one another. Whatever the truth of the matter, politics at large, and the politics of coercion in particular, appear ever more to be turning into lawfare. But this still does not lay to rest the questions that lurk beneath our narrative, although it does gesture toward some answers: Again, why the fetishism of legalities? What are its implications for the play of law and dis/order in the postcolony? And what, if anything, makes postcolonies different in this respect from other nation-states? Of Heterodoxy, Commensuration, Cameras Obscura, and Horizontal Sovereignties At one level the answer to the first question looks to be self-evident. The turn to law, like the popular punitiveness of the present moment (see above), would seem to arise directly out of a growing anxiety about lawlessness; although, as we have already noted, more law, far from resolving the problem of disorder, draws attention back to rising criminality, further compounding public insecurities. But none of this explains the displacement of the political into the legal, the ready turn to civil proceedings to resolve an ever greater range of private wrongs, and so on. To be sure, the fetishism of the law runs far deeper than purely a concern with crime. It has to do with the very constitution of the postcolonial polity. And its history-in-the-making. The modernist nation-state appears to be undergoing an epochal move away from the ideal of an imagined community founded on the fiction, often violently sustained, of cultural homogeneity (B. Anderson 1983), toward a nervous, xenophobically tainted sense of heterogeneity and heterodoxy. The rise of neoliberalism has heightened all this, with its impact on population movements, on the migration of work and workers, on the dispersion of cultural practices, on the return of the colonial oppressed to haunt the cosmopoles that once ruled them and wrote their histories, on the geographical re/distribution of sites of accumulation. These effects are felt especially in former colonies, which were erected from the first on difference, itself owed to the indifference of empires that paid scant attention to the organic sociologies of the “countries” they casually called into being. In the event, as is increasingly the case everywhere, postcolonials are citizens for whom polymorphous, labile identities coexist in uneasy ensembles of political subjectivity. In many postcolonies, the “vast majority . . . principally think of themselves” as members of “an ethnic, cultural, language, religious, or some other group” and “attach their personal fate” to it, rather than to the nation, although this does not necessarily imply that most of them “reject their national identity” per se (Gibson 2004: chap. 2).90 Indeed, so-called communal loyalties are frequently blamed for the kinds of violence, nepotism, and corruption said to saturate these societies, as if cultures of heterodoxy bear within them the seeds of criminality, difference, disorder. But an awareness of difference itself also points the way to more law. Why? Because, with the growing heterodoxy of the twenty-first-century polity, legal instruments appear to offer a ready means of commensuration (J. Comaroff and J. L. Comaroff 2000): a repertoire of more or less standardized terms and practices that permit the negotiation of values, beliefs, ideals, and interests across otherwise-impermeable lines of cleavage. Hence the displacement of so much politics into jurisprudence. Hence the flight into constitutionalism, which, in its postcolonial guise, embraces heterogeneity within the language of universal rights—thus dissolving groups of people with distinctive identities into aggregates of person who may enjoy the same entitlements and enact their difference under the sovereignty of a shared Bill of Rights. Furthermore, because social, spiritual, and cultural identities tend increasingly to cross frontiers, resort to the jural as a means of commensuration also transects nation-states, which is why there is so much talk nowadays of global legal regimes. Meanwhile, the effort to make human rights into an ever more universal discourse, and to ascribe ever more authority to it, gives impetus to the remapping of the cartography of jurisdictions. While the growing salience of heterodoxy has been partly responsible for the fetishism of the law, another consideration is every bit as critical. It arises from a well-recognized corollary of the neoliberal turn, one spelled out earlier: the outsourcing by states of many of the conventional operations of governance, including those, like health services, incarceration, policing, and the conduct of war, integral to the management of “bare life.” Bureaucracies do retain some of their old functions, of course, most notably the transfer of public wealth into private hands. But progressively (or, depending on ideological orientation, retrogressively), twenty-first-century governments have attenuated their administrative reach, leaving more and more routine political action—be it social projects, the quest for redress, or the search for (anything other than national) security—to citizens as individuals, as communities of one kind or another, as classes of actor, social or legal. Under these conditions, in which the threat of disorder seems everywhere immanent, everywhere proportional to the retraction of the state, civil law presents itself as a more or less effective weapon of the weak, the strong, and everyone in between. This, in turn, exacerbates the resort to lawfare. The court has become a utopic institutional site to which human agency may turn for a medium in which to achieve its ends—albeit sometimes in vain, given the disproportion everywhere between populist expectations of legal remedy and, law-oriented nongovernmental organizations notwithstanding, access to its means. This is all the more so in postcolonies, where bureaucratic apparatuses and bourgeoisies were not elaborate to begin with; where the executive was typically unapproachable; in which heterogeneity was undeniable from the start, often without the requisite instruments; in which state control over the means of violence was never that firm; in which foreclosed access to power makes Lilliputian crusades into foreign jurisdictions very appealing. Put all of these things together and the fetishism of the law seems overdetermined. So, too, do its implications. The distillation of postcolonial citizens into legal subjects, and postcolonial politics into lawfare, charts the road from the past to the future, albeit less sharply in some places than in others. Not only are government and public affairs becoming more legalistic, but so are “communities” within the nation-state— cultural communities, religious communities, corporate communities, resi-dential communities, communities of interest, outlaw communities—in regulating their own internal affairs and in dealing with others (see chapter 6). Everything, it seems, including the metaphysics of disorder, exists here in the shadow of the law (see chapter 5), which also makes it unsurprising that a “culture of legality” should saturate not just civil order but also its criminal undersides, its camera obscura, and the ambiguous, gray, alegal zones that infuse both, drawing them together into an intricate weave of practices, relations, and mediations (see chapter 7). In a previous section, we spoke of the ways in which criminality appropriates, recommissions, and counterfeits the means and ends of polite society, of the state, of the market. Recall Gangland (Pty) Ltd. on the Cape Flats: organized crime there is not just a mirror image of the business world, a lumpen stand-in for those excluded from the service economy. For its consumers and customers, it also takes on some of the positive functions of government, not least the safety and security of its taxed client communities. Illicit corporations of this sort across the postcolonial world—loosely dubbed “mafias” and “gangs” but frequently much more complex, flexible structures than these terms suggest—often appoint shadow judicial personnel, duplicate legal rituals and processes, and convene courts to try offenders against the persons, property, and social order over which they exert sovereignty. Even in prison. Observe, in this regard, Steinberg’s (2004) extraordinary account of the elaborate mock judiciary and its even more elaborate proceedings, which extend to capital punishment, among the Numbers gangs in South Africa. Many outlawed “vigilante” groups have developed quite complicated simulacra of the law as well. Some even have . . . constitutions and, significantly, are said to offer “alternative citizenship” to their members. It will be self-evident that the counterfeiting of a culture of legality by the criminal underworld—and by those who occupy the spaces between it and the realm of the licit—feeds the dialectic of law and disorder. After all, once government begins seriously to outsource its services and to franchise force, and once extralegal organizations begin to mimic the state and the market by providing protection and dispensing justice, social order itself becomes like a hall of mirrors: at once there and not there, at once all too real and a palimpsest of images, at once visible, opaque, and translucent. What is more, this doubling, this copresence of law and disorder, has its own geography, a geography of discontinuous, overlapping sovereignties. We stated a moment ago that, with the proliferation of a culture of legality and the burgeoning resort to lawfare, “communities” of all kinds have become ever more legalistic in regulating their internal lives and in dealing with others; it is often in the process of so doing, in fact, that they become communities at all, the act of judicialization being also an act of objectification. Herein lies their will to sovereignty. Without joining the conversation occasioned by the revivification of interest in the work of Carl Schmitt on the topic, we take the term “sovereignty” to connote the more or less effective claim on the part of any agent, community, cadre, or collectivity to exercise autonomous, exclusive control over the lives, deaths, and conditions of existence of those who fall within a given purview, and to extend over them the jurisdiction of some kind of law (see Hansen and Stepputat 2005). Sovereignty, pace Agamben (2005), is as much a matter of investing a world with regulations as being able to suspend them, as much a matter of establishing the normative as determining states of exception. Any sovereignty, even if it is a criminal counterfeit, depends also on the institution of an order of rules in order to rule. “Lawmaking,” argues Benjamin (1978: 295), “is power making, and, to that extent, an immediate manifestation of violence.” But “power [is] the principle of all mythical lawmaking.” In sum, to transcend itself, to transform itself into sovereign authority, power demands at the very least a minimal architecture of legalities—or, once again, their simulacra.

#### War and peace, left and right, have become indistinguishable. The AFF is imperial outflanking that quashes the possibility of revolt. You should prefer a re-thinking of thinking to move away from their ontological reification of western notions of subjectivity. Empire is a mood of domination – you should not engage in it.

Constantinou 12 [Constantinou, Marios (University of Cyprus). “Venus Imperatrix: The Moods of Empire.” Parallax 18.4, 2012. pp. 1–5. // WWXR 2016-5-8]

What is under examination is Empire as an affective disclosure. What kind of world do imperial moods disclose? Being an affective intentionality without a subject, Empire discloses projects, involvements and logics of taking care of business which betray, as Michel Foucault has argued, a certain directionality of biopower whose overall effect escapes anyone’s intention in particular. Empire, then, is a state of mind, a fundamental mood; a mode of attunement where the biopower of the imperial bourgeoisie of the 19th century which served as a strategy of its selfconstitution has by now evolved into a mood of global domination not only over collaborative elites aspiring to partnership but also over peoples. The thrilling mood of postmodern biopower, namely, the mood of ‘getting ready to be transfigured’ was captured for a moment by Hélène Cixous: ‘who knows who I shall be, a moment from now, in the fertile night’ of Empire?5 Empire is the essential moodiness of Classical Imperialism, its clamorous self-duplicity disclosed anew in relative autonomy, so to speak, from its original models. Living through a gestation process at the heart of Central European Imperial metaphysics, Heidegger profoundly sensed both its disclosive and self-destructive moods. Although the moral assessment and juridical indictment of Nazism has more or less been orderly completed, Heidegger’s critical engagement with the neo-Roman foundations of Western imperialism remains, with rare exceptions, obscurely silenced.6 However there are still sufficient (and original) grounds for questioning these intellectual and affective tropes of Western imperialism. Heidegger anticipated that the inherently biopolitical moods of Empire would co-exist and co-evolve with imperialist terror; the existential withdrawal of a world that up until then was taken for granted as inert raw material, a mere standing reserve. Heidegger’s Being and Time, along with his lectures on Parmenides, are in many respects masterful investigations of the neo-Roman tropes of Empire. Heidegger remains, in my view, a forgotten but suggestive resource for a critical re-examination of the current dispositions of Empire as an indeterminable biopolitical terrain. Heidegger’s lesson, with regard to the present engagement, is relevant to the dual nature of imperial pacifism: humanistic and at the same time immanently related to war pathologies. Attuned to Heidegger’s critique, one could note that what is despicable is its ignoble, unconfessed and unconfessable violence which is philistine, cow hearted, lily-livered, weak-kneed and, at the same time, beastly, ferocious and relentless. Those who legitimize imperial peace commit the most contemptible form of violence, perpetrating the most cowardly assault. In Heidegger’s sense, they are the new arrivals of last men and women, evangelizing peace on imperial terms. If there is a critical legacy for thought after the fascist disaster that is it: the dual nature of the Empire of the last man and the unending completion of an American ivf metaphysics. Upon reflection, the moods of Empire disclose a fundamental ambiguity, particularly its manipulative, double-eyed biopolitical diplomacy. We are living through times when any reference to ‘imperialism’ sounds like the idle talk of a bygone era that memory cannot recall. We cannot but test the principal axioms of the New International Order against its master moods which neither disclose perpetual peace nor perpetual war but an ambiguous demarcation between the two, moving in and out of these states swiftly and without forewarning, hence trivializing both. In other words, there is still something fraudulently Roman about Empire – its commanding gaze, moods and disciplines – which confers upon any concept of politics an empty resonance. The Third Reich may be gone but the commanding logic of Roman interpellation as an imperial perspective is still our enduring condition. According to Heidegger, in Parmenides the defining feature of imperial actio proper alludes not to war but to the logic of fallere; of bringing down to fall by deceptive circumvention, by going around. In other words, commanding as a logic of imperial actio entails a constant surmounting, a deceptive outflanking, a circumspicio whose circular, periscopic, all encompassing revolving gaze turns the enemy’s resistance around.7 Ambiguity remains the privileged mood and disciplinary pedagogy of our imperial postmodernity. This mood in the sense of disposition ought then to be read in an extended Heideggerian sense which includes modes of disposing order and methods of pacification – that is, the biopolitical sovereignty of an uncircumscribed imperium consisting of formal commands, informal decrees and injunctions. The all-knowingness of ambiguous everyday structures of groundless hearsay or idle talk, spying or curiosity, furnishes the global biopower of Empire with average understandability, insatiably investigating and understanding everything, but learning nothing. This commonsensical ambiguity of ‘diaphanous’ publicity is the unsurpassable ontological structure of Empire as it stands. Its forces of simulation reduce any possibility of counteraction to an already belated, collateral and derivative status. So much for the ambiguous openness of Empire, Commonwealth and governance. We are all attuned into it! We rise and fall together! Heidegger’s insights into the structure of imperial command can be traced back to Nietzsche’s axiomatic style. Nietzsche’s account of affect as a hallmark of command schematizes genealogically the intriguing self-duplicity of biopower and its moodalities capable of de-powering resistance to it. The principal preoccupation of this intervention is to rethink the concept of Empire in terms of definable affects and effects: that is, by recollecting its luxurious yet bare will to biopower, the aimless striving of the will to will. Empire in this Nietzschean sense of decadence is both the commanding and obeying party – governing and opposing through NGOs, managing Right and Left and embodying contradictory drives and articulations of affect.

#### To vote for the negative is to disrupt the habit – your ballot should attune to socialist fundamentalism, a wager on the side of life, not that of death. Our objective is not simply the destruction of a state and the liquidation of class domination but also and above all the construction of new social relations that should and can be developing in the present. Reclaiming the affective undercurrents of civil society can inculcate a good multitude in tactical insurgency against transcendent forces of hierarchal violence.

Beasley-Murray 10

Jon Beasley-Murray. Professor of French, Hispanic, and Italian Studies at the University of British Columbia. 2010. Posthegemony: Political Theory and Latin America. Pages 117-121.

Sendero combines affect and reason with peculiar intensity. From the outside it always appeared bloodthirsty, mysterious, and irrational. Sendero militants seemed to be motivated perhaps by archaic prejudice, perhaps by sheer hatred and ressentiment. Everything about the movement was excessive and disturbing. But political scientist David Apter comments that “just as there are reasons of state, so there are reasons of the anti-state,” however much the latter appear to be antireasons.132 Indeed, as Degregori explains, Sendero is better understood as what, taking the phrase from nineteenth-century poet Manuel González Prada, he calls a “divine cult to reason.”133 Its ecstatic rationality slides easily into rational ecstasy and back again. Hence Degregori argues that to understand Sendero, we should “invert Pascal’s phrase, ‘the heart has reasons of which reason is unaware,’ ” and say of Sendero’s leading group that “reason has passions of which the heart is unaware.” Sendero is a “hyperrationalist movement” that “develops and draws out” extraordinary passions.134 It amplified the passions of its adherents, but it also drew out unsuspected passions from society at large. At the peak of the insurgency, nobody could be sure of the line between reason and affect, rationality and madness. Sendero encouraged its followers to embark on a paranoid search for order, but at the same time it revealed the paranoid structure of civil society as a whole. The modern, developmentalist state inadvertently spawned and nurtured the passions that drove those who would become its most tireless enemies. Sendero’s cradle was Ayacucho’s University of Huamanga, reopened in the late 1950s. In particular, the movement was always strongest in the university’s Faculty of Education. The state held out education as the vehicle of progress and raised enormous expectations about the transformations that lay ahead. The university would bring modernity to this rural backwater in the Andes. Education offered a form of salvation, a means to escape; if there was any millenarianism or messianism in Sendero, this was its source. As Degregori puts it, “Andean peasants...ﬂung themselves into the conquest of ‘progress.’ ” They searched for the knowledge and truth that would set them free; and “those who made it to university would have to go further and search out, by dint of great effort, something beyond truth: coherence.” For Degregori, Sendero militants, especially its leadership in the early stages, were driven by this state sanctioned love of truth and coherence: “And when they think they have found them, they are capable of the greatest violence in order to defend and impose them.”135 Their violence provoked consternation and horror in Peruvian civil society; but it merely reﬂected the structural (and often enough also actual) violence that had long patrolled the boundary between center and periphery, civilization and presumed barbarism. Again, Sendero held up a mirror to civil society, revealing its translations between affect and reason, and unveiling the terror that secures its simulacrum of a social pact. Sendero “affected” civil society, reintroducing affect into its rationalizations. It provides the limit of civil society theory, the unaccountable distortion at its horizon. And precisely because its hyperrationality is illegible to the state, Sendero is also a brick wall, a screen, an empty signiﬁer upon which others project fearful and shadowy images (not least, of Peru’s indigenous majority) in an inverted reﬂection of Sendero’s rational purity, its all-consuming joy. Sendero tipped reason over into madness. Like the paranoid whose obsession with interpretation and connection soon constructs a hyperreal edifice that no longer bears much relation to the real itself, Sendero passed through rationality to delirium but also demonstrated the delirium that underlies rationality. With Sendero, ideological reason was cultivated and transformed such that it no longer had a communicative function. In its abstract rigor and autonomy, an ideology that lays claim to the scientiﬁc tradition came close to a surreal poetry that is both horrifying and sublime: “[The people’s] blood will rise like pulsing wings, and that bruised ﬂesh will turn into the powerful whips of vengeance, and muscles and action will turn into a steel battering ram to destroy the oppressors, who will be irretrievably smashed.”136 Language becomes pure affect. Sendero’s language is the expression and sign of purity, foretelling the joy of those who share in that spotless clarity and instilling fear into those it deﬁnes as radically other. It never attempted to convince or persuade. The passions of reason mimic the reasons of the heart in a reciprocal reinforcement that requires no justiﬁcation. This is barbarous indeed, but Sendero equally shows up the barbarity of the constituted, ofﬁcial state and its mechanisms of subalternization. Sendero seeks no negotiation because it poses only one question: Are you loyal to this vision of revolution? Or as its militants put it to María Elena Moyano: step aside or be eliminated. While the neoliberal state has a panoply of polls and calls for managerial support, Sendero, which managed only the revolution, reduced this discourse to the single question: yes or no? Increasingly, however, the same is true also of the contemporary state, affected by a war against terror that is now global. It, too, asks little more than that we be either for it or against it. Though Sendero’s discourse becomes sublime and sublimely horrifying, we should avoid describing Latin American reality as abject difference. This is neither the “noche obscura” of novelist Joan Didion’s Salvador, nor the revolution from the Incan South of journalist Simon Strong’s Shining Path.137 Sendero incarnates the apotheosis of reason, plucked straight from the ﬁnest Western philosophical tradition of Kant (subject of Guzmán’s thesis) and Marx. More generally, all civil societies are “affected.” Neither the Peruvian nor more generally the Latin American experiences are aberrant. As I will suggest in chapter 3, all social formations are structured through affect, by the reasons of the heart and the passions of reason. Sendero shows how affect is a constituent element of any social formation, that necessarily disrupts the working of any civil society. Any attempt to set limits to this constituent power is doomed to failure, not least in an era of biopolitics in which neoliberal Empire has already pulverized the carefully constructed barriers of liberal modernity. Sovereignty is more precarious than ever, and rightly so. Which is not to say that we should support all its adversaries: Sendero’s line of ﬂight soon became suicidal as well as homicidal; it became entranced by death rather than life. As historian Alberto Flores Galindo tersely comments, in reaction to a 1988 Sendero killing: “Socialism is a wager on the side of life, not that of death. Its objective is not simply the destruction of a state and the liquidation of class domination but also and above all the construction of new social relations that should and can be developing in the present.”138 The problem posed by Sendero, and other similar movements, is why such constituent power turns back on itself and how hope and expectation become death and conﬂagration. With the crisis of the state, and the dissolution of any boundary between state and civil society, affect comes to the fore. Paranoia ﬂourishes in the face of constant surveillance, but equally the tides of policy ebb and ﬂow with changes in popular sentiment. The extent to which social relations are structured in terms of affect rather than (or on another level from) discourse becomes clearer. Other social logics begin to emerge in eddies and whorls, and fundamentalisms thrive as the mechanism of representation passes its sell-by date. Civil society theory aims to restore order, and at the same time holds out the hope of reform by returning a sense of rationality and agency to subaltern subjects. If traditional left politics had assumed a vanguard role for intellectuals, who are to awaken and educate the masses, a focus on new social movements emphasizes rather the myriad negotiations and initiatives performed by subaltern subjects. No doubt this has been a progressive move to counter the view that peasants, the indigenous, and others are formed by premodern communities bound by atavistic tradition and superstition. An emphasis on subjectivity is a welcome corrective. Yet it is as though subalterns were presented as perfect rational choice actors, conforming to the most ideal of Western liberal paradigms of reason. Presenting them as rational actors of this type deculturates and depoliticizes such agents by presenting them “as if they were outside culture and ideology.”139 The price subalterns pay is that their activities are recognized only so long as they accord to a notion of reason imposed upon them; only, that is, so long as efﬁciency and modernization continue to be the ground of civil society. Such actors are to be ascribed agency, but on the terms of the social theorist. Anything outside that framework becomes invisible, and the democratic task becomes to substitute a rational civil society for affective and cultural relations seen as distorting its managerial transparency. But an insistence on transparency heralds a massive expansion of the state, a politics futilely focused on the wholesale elimination of culture and corruption. Neoliberalism takes over where civil society theory leaves off, only to founder on the terror that lurks at its margins and haunts society as a whole. Civil society is enlivened by the fundamentalism that civil society theory subsequently seeks to curtail. But in the context of a global war on terror, fundamentalism has the upper hand: whether that be the fanaticism that is pledged to bring down the state, or the state’s own brand of now decentered sovereignty. A multitude confronts Empire and yet, as I argue in my concluding chapter, there is less than ever to choose between them. But surely there is some alternative to the fundamentalisms of a Sendero Luminoso or an al-Qaida on the one hand, or of neoliberalism’s diffuse forms of command and control on the other. There is no point returning to the deadening restrictions and careful regulations of the liberal contract. And populist hegemony is also but an illusion, a misleading sleight of hand. Could there then be a fundamentalism driven by vitality, afﬁrmation, and life, rather than the death drive of mutual immolation? Refusing the constrictions and antidemocratic democracy of civil society theory, we might reconsider the immediacy of social movements in their excessive and passionate demands. Encore un effort. Néstor García Canclini asks how to be radical, without being fundamentalist. We might do better to look for a good fundamentalism, a good multitude. With that in mind, I turn now from critique to constitution.

#### The judge’s role is to analyze the interpellative function of the 1AC.

Lewis 14 [Lewis, William, "Louis Althusser", The Stanford Encyclopedia of Philosophy (Spring 2014 Edition), Edward N. Zalta (ed.), URL = <https://plato.stanford.edu/archives/spr2014/entries/althusser/>.]

4.2 Theory of Ideology During the 1970s, Althusser continued the revisions begun in 1967 and elaborated other Marxian ideas he believed to be underdeveloped. Perhaps the best known of the new conceptual formulations resulting from these efforts is that of “ideological interpellation.” This account of how a human being becomes a self-conscious subject was published in an essay titled “Ideology and Ideological State Apparatuses” (1970). It was excerpted from a larger essay essay titled “On the Reproduction of Capitalism.” This work analyzed the necessary relationship between state and subject such that a given economic mode of production might subsist. It includes not only an analysis of the state and its legal and educational systems but also of the psychological relationship which exists between subject and state as ideology. This narrative of subjectification was intended to help advance Althusser's argument that regimes or states are able to maintain control by reproducing subjects who believe that their position within the social structure is a natural one. Ideology, or the background ideas that we possess about the way in which the world must function and of how we function within it is, in this account, understood to be always present. Specific socio-economic structures, however, require particular ideologies. These ideologies are instantiated by institutions or “Ideological State Apparatuses” like family, schools, church, etc., which provide the developing subject with categories in which she can recognize herself. Inasmuch as a person does so and embraces the practices associated with those institutions, she has been successfully “hailed” or “interpellated” and recognized herself as that subject who does those kinds of things. As the effect of these recognitions is to continue existing social relations, Althusser argued that a Dictatorship of the Proletariat is necessary so that Ideological State Apparatuses productive of the bourgeois subject can be replaced with those productive of proletarian or communist subjects. 4.3 Marx's Philosophy Redux In 1978 and as a response to what he saw, yet again, as the theoretical and political misdirection of the Communist movement, Althusser authored a piece, “Marx in his Limits,” which was intended to separate the good from the bad in Marx's philosophy. In his classic work, Althusser had tried to accomplish this goal by separating out ideological concepts and by bringing forth the scientific ones. However, in “Marx in his Limits,” he now argued that such a method of separation cannot work because—within Marx's writings and throughout his oeuvre—both good and bad, materialist and idealist concepts, are hopelessly intermixed and many are underdeveloped. Inasmuch as Althusser admits in this piece that Marx never fully abandoned Hegel's logic, the concept of human alienation, or the idea that history has a goal, the inventory Althusser offers can be seen as a positive response to the charge that he had ignored Marx's explicit statements in order to imagine for Marx a consistent and “true” philosophy. Althusser does not give up on the task of articulating a better Marxist philosophy, however. Instead, he argues that there is another, “materialist” criterion that allows us to see the limits of Marx's thinking and to recognize those points in his work where Marx was unable to transcend his bourgeois background and his education in German Idealism. This criterion is that of the practical success or failure of Marx's concepts as each has been employed in the history of Marxist movements. When we have affected this inventory and grouped together the successful concepts, what we are left with is a materialist Marxism, a Marxism which endorses the scientific method as the best way for understanding ourselves and our potential but that also understands that this method is fallible. Remaining also is a Marxism which does not subscribe to any philosophy of history and which certainly does not maintain that capitalism will inevitably lead to communism. This Marxism has no system of interrelated concepts that guarantee a scientific analysis. Further, it possesses no worked out theory of the relations between economic structures and cultural structures but for that limited knowledge which scientific practice provides. Finally, this Marxism has given up the dream of analyzing the whole of culture and its movement from the outside; it realizes that one thinks inside and about the culture one inhabits in order to possibly effect and change that culture.

### Link—Lawfare

#### The aff displaces the political struggle against police violence into the legal arena—this is part and parcel of a global culture of legality that treats the redress of violence as reducible to a cash payment. But normative jurisprudence is locked in a dialectic with violence—it relies on and feeds into the perpetuation of violent disorder and lawfare, the use of legal instruments to legitimate coercion—this turns case and outweighs since it erases the ability of marginal subjects to be anything other than legally recognized—this eliminates the possibility of resisting lawfare in the future, which outweighs on scope.

Comaroff and Comaroff 6 [Comaroff, Jean (Bernard E. and Ellen C. Sunny Distinguished Service Professor of Anthropology at the University of Chicago and Honorary Professor at the University of Cape Town) and John L. Comaroff (Harold H. Swift Distinguished Service Professor of Anthropology at the University of Chicago, a Senior Research Fellow at the American Bar Foundation, and Honorary Professor at the University of Cape Town). “Law and Disorder in the Postcolony: An Introduction.” *Law and Disorder in the Postcolony*. Eds. Jean Comaroff and John L. Comaroff. Chicago: University of Chicago Press, 2006. Print. pp. 29–35 // WWXR 2016-5-20]

It is not just the politics of the present that is being judicialized. The past, too, is increasingly caught up in the dialectic of law and disorder: hence the mobilization of legalities to fight anti-imperialist battles anew, which has compelled the British government to answer under oath for having committed acts of unspeakable atrocity in its African “possessions” (D. Anderson 2005; Elkins 2005), for having killed local leaders at whim, and for having unlawfully alienated territory from one African people to another. By these means is colonialism, tout court, rendered criminal. Hauled before a judge, history is made to break its silences, to speak in tongues hitherto unheard and untranslated, to submit itself to the scales of justice at the behest of those who suffered it, of its most abject subjects— and to be reduced to a cash equivalent, payable as the official tender of damage, dispossession, loss, trauma. In the process, too, it becomes clear that what imperialism is being indicted for, above all, is its commission of lawfare: its use of its own rules—of its duly enacted penal codes, its administrative law, its states of emergency, its charters and mandates and warrants, its norms of engagement—to impose a sense of order upon its subordinates by means of violence rendered legible, legal, and legitimate by its own sovereign word. And also to commit its own ever-socivilized, patronizing, high-minded forms of kleptocracy. Lawfare—the resort to legal instruments, to the violence inherent in the law, to commit acts of political coercion, even erasure (J. L. Comaroff 2001)—is equally marked in postcolonies, of course. As a species of political displacement, it becomes most readily visible when those who act in the name of the state conjure with legalities to act against some or all of its citizens. Any number of examples present themselves, but the most infamously contemporary is, again, to be found in Zimbabwe. The Mugabe regime has consistently passed laws in parliament intended to silence its critics and then has proceeded to take violent action against them; the media regulations put in place just after the presidential election of 2002 are a case in point. Operation Murambatsvina (“Drive out Trash”), which has razed informal settlements and markets, forced people out of urban areas, and caused a great deal of hardship, ill-health, and death under the banner of “slum clearance,” has recently taken this practice to unprecedented heights—or depths. The most persuasive explanation for the operation, says Allister Sparks,86 is that it is, first, an act of vengeance against urban Zimbabweans who voted overwhelmingly for the opposition Movement for Democratic Change in the national election of March 2005; second, an attempt to preempt uprisings on the part of a largely out-of-work population desperately short of food and fuel; and, third, a strike against the black market that has arisen in the informal sector to trade in the foreign currency sent back by citizens laboring abroad. Murambatsvina, according to the Mugabe regime, is merely an application of the law of the land: it is a righteous effort to demolish “illegal structures.” For critics, on the other hand, it is not that at all. As one Caribbean journalist put it, in a phrase especially apt here, it is “political criminality.”87 Note, in this respect, how the Zimbabwean embassy in Jakarta responded to a censorious piece in an Indonesian newspaper: The rapid development of illegal informal small-scale industries, trading centers and outbuildings in all the cities and towns had destroyed the status of these urban centers and outstretched the capacity of the municipalities to provide adequate services. The inability of the urban local authorities to levy most of the illegal vendors created an untenable situation that victimized everybody, including the licenced traders. Many illegal activities such as the hoarding of basic commodities and dealing in gold and foreign currency were thriving in the illegal informal sector. Over 22,000 people have been arrested for various offenses during the ongoing exercise. . . . The court also ruled that most of the structures were illegal as the owners did not follow the set approval channels with the respective local authorities. The word “illegal” appears five times in this passage. Lawfare can be limited or it can reduce people to “bare life”; in some postcolonies, it has mutated into a deadly necropolitics with a rising body count (see chapter 9). But it always seeks to launder brute power in a wash of legitimacy, ethics, propriety. Sometimes it is put to work, as it was in many colonial contexts, to make new sorts of human subjects; sometimes it is the vehicle by which oligarchs seize the sinews of state to further their economic ends; sometimes it is a weapon of the weak, turning authority back on itself by commissioning the sanction of the court to make claims for resources, recognition, voice, integrity, sovereignty.89 But ultimately, it is neither the weak nor the meek nor the marginal who predominate in such things. It is those equipped to play most potently inside the dialectic of law and disorder. This, to close a circle opened in the preface, returns us to Derrida, Agamben, and Benjamin: to the notion that the law originates in violence and lives by violent means, the notion, in other words, that the legal and the lethal animate and inhabit one another. Whatever the truth of the matter, politics at large, and the politics of coercion in particular, appear ever more to be turning into lawfare. But this still does not lay to rest the questions that lurk beneath our narrative, although it does gesture toward some answers: Again, why the fetishism of legalities? What are its implications for the play of law and dis/order in the postcolony? And what, if anything, makes postcolonies different in this respect from other nation-states? Of Heterodoxy, Commensuration, Cameras Obscura, and Horizontal Sovereignties At one level the answer to the first question looks to be self-evident. The turn to law, like the popular punitiveness of the present moment (see above), would seem to arise directly out of a growing anxiety about lawlessness; although, as we have already noted, more law, far from resolving the problem of disorder, draws attention back to rising criminality, further compounding public insecurities. But none of this explains the displacement of the political into the legal, the ready turn to civil proceedings to resolve an ever greater range of private wrongs, and so on. To be sure, the fetishism of the law runs far deeper than purely a concern with crime. It has to do with the very constitution of the postcolonial polity. And its history-in-the-making. The modernist nation-state appears to be undergoing an epochal move away from the ideal of an imagined community founded on the fiction, often violently sustained, of cultural homogeneity (B. Anderson 1983), toward a nervous, xenophobically tainted sense of heterogeneity and heterodoxy. The rise of neoliberalism has heightened all this, with its impact on population movements, on the migration of work and workers, on the dispersion of cultural practices, on the return of the colonial oppressed to haunt the cosmopoles that once ruled them and wrote their histories, on the geographical re/distribution of sites of accumulation. These effects are felt especially in former colonies, which were erected from the first on difference, itself owed to the indifference of empires that paid scant attention to the organic sociologies of the “countries” they casually called into being. In the event, as is increasingly the case everywhere, postcolonials are citizens for whom polymorphous, labile identities coexist in uneasy ensembles of political subjectivity. In many postcolonies, the “vast majority . . . principally think of themselves” as members of “an ethnic, cultural, language, religious, or some other group” and “attach their personal fate” to it, rather than to the nation, although this does not necessarily imply that most of them “reject their national identity” per se (Gibson 2004: chap. 2).90 Indeed, so-called communal loyalties are frequently blamed for the kinds of violence, nepotism, and corruption said to saturate these societies, as if cultures of heterodoxy bear within them the seeds of criminality, difference, disorder. But an awareness of difference itself also points the way to more law. Why? Because, with the growing heterodoxy of the twenty-first-century polity, legal instruments appear to offer a ready means of commensuration (J. Comaroff and J. L. Comaroff 2000): a repertoire of more or less standardized terms and practices that permit the negotiation of values, beliefs, ideals, and interests across otherwise-impermeable lines of cleavage. Hence the displacement of so much politics into jurisprudence. Hence the flight into constitutionalism, which, in its postcolonial guise, embraces heterogeneity within the language of universal rights—thus dissolving groups of people with distinctive identities into aggregates of person who may enjoy the same entitlements and enact their difference under the sovereignty of a shared Bill of Rights. Furthermore, because social, spiritual, and cultural identities tend increasingly to cross frontiers, resort to the jural as a means of commensuration also transects nation-states, which is why there is so much talk nowadays of global legal regimes. Meanwhile, the effort to make human rights into an ever more universal discourse, and to ascribe ever more authority to it, gives impetus to the remapping of the cartography of jurisdictions. While the growing salience of heterodoxy has been partly responsible for the fetishism of the law, another consideration is every bit as critical. It arises from a well-recognized corollary of the neoliberal turn, one spelled out earlier: the outsourcing by states of many of the conventional operations of governance, including those, like health services, incarceration, policing, and the conduct of war, integral to the management of “bare life.” Bureaucracies do retain some of their old functions, of course, most notably the transfer of public wealth into private hands. But progressively (or, depending on ideological orientation, retrogressively), twenty-first-century governments have attenuated their administrative reach, leaving more and more routine political action—be it social projects, the quest for redress, or the search for (anything other than national) security—to citizens as individuals, as communities of one kind or another, as classes of actor, social or legal. Under these conditions, in which the threat of disorder seems everywhere immanent, everywhere proportional to the retraction of the state, civil law presents itself as a more or less effective weapon of the weak, the strong, and everyone in between. This, in turn, exacerbates the resort to lawfare. The court has become a utopic institutional site to which human agency may turn for a medium in which to achieve its ends—albeit sometimes in vain, given the disproportion everywhere between populist expectations of legal remedy and, law-oriented nongovernmental organizations notwithstanding, access to its means. This is all the more so in postcolonies, where bureaucratic apparatuses and bourgeoisies were not elaborate to begin with; where the executive was typically unapproachable; in which heterogeneity was undeniable from the start, often without the requisite instruments; in which state control over the means of violence was never that firm; in which foreclosed access to power makes Lilliputian crusades into foreign jurisdictions very appealing. Put all of these things together and the fetishism of the law seems overdetermined. So, too, do its implications. The distillation of postcolonial citizens into legal subjects, and postcolonial politics into lawfare, charts the road from the past to the future, albeit less sharply in some places than in others. Not only are government and public affairs becoming more legalistic, but so are “communities” within the nation-state— cultural communities, religious communities, corporate communities, resi-dential communities, communities of interest, outlaw communities—in regulating their own internal affairs and in dealing with others (see chapter 6). Everything, it seems, including the metaphysics of disorder, exists here in the shadow of the law (see chapter 5), which also makes it unsurprising that a “culture of legality” should saturate not just civil order but also its criminal undersides, its camera obscura, and the ambiguous, gray, alegal zones that infuse both, drawing them together into an intricate weave of practices, relations, and mediations (see chapter 7). In a previous section, we spoke of the ways in which criminality appropriates, recommissions, and counterfeits the means and ends of polite society, of the state, of the market. Recall Gangland (Pty) Ltd. on the Cape Flats: organized crime there is not just a mirror image of the business world, a lumpen stand-in for those excluded from the service economy. For its consumers and customers, it also takes on some of the positive functions of government, not least the safety and security of its taxed client communities. Illicit corporations of this sort across the postcolonial world—loosely dubbed “mafias” and “gangs” but frequently much more complex, flexible structures than these terms suggest—often appoint shadow judicial personnel, duplicate legal rituals and processes, and convene courts to try offenders against the persons, property, and social order over which they exert sovereignty. Even in prison. Observe, in this regard, Steinberg’s (2004) extraordinary account of the elaborate mock judiciary and its even more elaborate proceedings, which extend to capital punishment, among the Numbers gangs in South Africa. Many outlawed “vigilante” groups have developed quite complicated simulacra of the law as well. Some even have . . . constitutions and, significantly, are said to offer “alternative citizenship” to their members. It will be self-evident that the counterfeiting of a culture of legality by the criminal underworld—and by those who occupy the spaces between it and the realm of the licit—feeds the dialectic of law and disorder. After all, once government begins seriously to outsource its services and to franchise force, and once extralegal organizations begin to mimic the state and the market by providing protection and dispensing justice, social order itself becomes like a hall of mirrors: at once there and not there, at once all too real and a palimpsest of images, at once visible, opaque, and translucent. What is more, this doubling, this copresence of law and disorder, has its own geography, a geography of discontinuous, overlapping sovereignties. We stated a moment ago that, with the proliferation of a culture of legality and the burgeoning resort to lawfare, “communities” of all kinds have become ever more legalistic in regulating their internal lives and in dealing with others; it is often in the process of so doing, in fact, that they become communities at all, the act of judicialization being also an act of objectification. Herein lies their will to sovereignty. Without joining the conversation occasioned by the revivification of interest in the work of Carl Schmitt on the topic, we take the term “sovereignty” to connote the more or less effective claim on the part of any agent, community, cadre, or collectivity to exercise autonomous, exclusive control over the lives, deaths, and conditions of existence of those who fall within a given purview, and to extend over them the jurisdiction of some kind of law (see Hansen and Stepputat 2005). Sovereignty, pace Agamben (2005), is as much a matter of investing a world with regulations as being able to suspend them, as much a matter of establishing the normative as determining states of exception. Any sovereignty, even if it is a criminal counterfeit, depends also on the institution of an order of rules in order to rule. “Lawmaking,” argues Benjamin (1978: 295), “is power making, and, to that extent, an immediate manifestation of violence.” But “power [is] the principle of all mythical lawmaking.” In sum, to transcend itself, to transform itself into sovereign authority, power demands at the very least a minimal architecture of legalities—or, once again, their simulacra.

### Framing—Interpellation

#### The resolved colon hails all affirmative debaters to respond, and each debater is responsible for the relationship established by their response to it. The 1AC’s relationship to the resolution reduces anonymous materiality to an anthropomorphically scaled, managerial register *despite being unable to articulate the Outside present in every argument they make*. *Flag this argument*.

Shanahan 04 [Bill, inventor of the kritik and former debate coach @ Ft. Hays “Twilight of the Topical Idols: Kritik-ing in the Age of Imperialism” September 2004. Contemporary Argumentation and Debate. Vol. 25. p7-8]

Due to editorial constraints, this essay limits itself to drawing a narrow strand out of and across contemporary debate theory and practice, in order to illustrate and lay to rest the “controversy.” The strategy on which second-generation kritik-ing pivoted was exposing *interpretation* at the heart of topicality. While of course much energy over the decades has been poured into interpreting the topic, most of that energy was spent on ways of effectively limiting the topic by delimiting the boundaries around it and creating itself through a constitutive outside. Little effort was devoted previously to examining the relationship involved in affirming the topic. The activity of **affirmation was engaged unproblematically because the realities imbedded in it were so long habituated.** Topical relationships are, by no means, the extent and limit of this critical movement. Nonetheless, tracing the contours of how this relationship changed so dramatically over the last seven or eight years should help us to better understand why debate desperately need*ed* kritiks and how kritik-ing so handily became such an integral, inseparable part of debate.[continues 2 paragraphs later, full text available upon request] One important theoretical consideration emerged from the discernment of a *previously* unnoticed topical function (that the topic might be considered to have particular functions at all was itself the result of the gradual influx of discourse theory). Every year and before every debate, **the resolved-colon hails or interpellates debaters as** affirmative **subjects**. Lacanian Marxist Louis **Althusser**, while discussing the mirror-structure of bourgeois capitalist ideology, **argues that it ensures “the interpellation of ‘individuals’ as subjects” and their mutual recognition of each other and themselves**.2 For debate, **the topic *hails***affirmative **debaters and their 1ac’s answer that hail, either explicitly or implicitly**. Too **often, debaters presume that if they do not debate something then it does not matter**. The second generation exposed this sentiment as fallacious and sought to argumentatively contradict it in debate rounds. **An unacknowledged topical hail no less hails** affirmative **debaters. The implications** are obvious and legion: Whether or not debaters accept the topical hail, they still are interpellated by it and can be defeated by it, if their opponents respond more effectively to it. The topic’s relationship to everyone in the debate was exposed and debatable.

#### Althusser’s phil of interpellation

Lewis 14 [Lewis, William, "Louis Althusser", The Stanford Encyclopedia of Philosophy (Spring 2014 Edition), Edward N. Zalta (ed.), URL = <https://plato.stanford.edu/archives/spr2014/entries/althusser/>.]

4.2 Theory of Ideology During the 1970s, Althusser continued the revisions begun in 1967 and elaborated other Marxian ideas he believed to be underdeveloped. Perhaps the best known of the new conceptual formulations resulting from these efforts is that of “ideological interpellation.” This account of how a human being becomes a self-conscious subject was published in an essay titled “Ideology and Ideological State Apparatuses” (1970). It was excerpted from a larger essay essay titled “On the Reproduction of Capitalism.” This work analyzed the necessary relationship between state and subject such that a given economic mode of production might subsist. It includes not only an analysis of the state and its legal and educational systems but also of the psychological relationship which exists between subject and state as ideology. This narrative of subjectification was intended to help advance Althusser's argument that regimes or states are able to maintain control by reproducing subjects who believe that their position within the social structure is a natural one. Ideology, or the background ideas that we possess about the way in which the world must function and of how we function within it is, in this account, understood to be always present. Specific socio-economic structures, however, require particular ideologies. These ideologies are instantiated by institutions or “Ideological State Apparatuses” like family, schools, church, etc., which provide the developing subject with categories in which she can recognize herself. Inasmuch as a person does so and embraces the practices associated with those institutions, she has been successfully “hailed” or “interpellated” and recognized herself as that subject who does those kinds of things. As the effect of these recognitions is to continue existing social relations, Althusser argued that a Dictatorship of the Proletariat is necessary so that Ideological State Apparatuses productive of the bourgeois subject can be replaced with those productive of proletarian or communist subjects. 4.3 Marx's Philosophy Redux In 1978 and as a response to what he saw, yet again, as the theoretical and political misdirection of the Communist movement, Althusser authored a piece, “Marx in his Limits,” which was intended to separate the good from the bad in Marx's philosophy. In his classic work, Althusser had tried to accomplish this goal by separating out ideological concepts and by bringing forth the scientific ones. However, in “Marx in his Limits,” he now argued that such a method of separation cannot work because—within Marx's writings and throughout his oeuvre—both good and bad, materialist and idealist concepts, are hopelessly intermixed and many are underdeveloped. Inasmuch as Althusser admits in this piece that Marx never fully abandoned Hegel's logic, the concept of human alienation, or the idea that history has a goal, the inventory Althusser offers can be seen as a positive response to the charge that he had ignored Marx's explicit statements in order to imagine for Marx a consistent and “true” philosophy. Althusser does not give up on the task of articulating a better Marxist philosophy, however. Instead, he argues that there is another, “materialist” criterion that allows us to see the limits of Marx's thinking and to recognize those points in his work where Marx was unable to transcend his bourgeois background and his education in German Idealism. This criterion is that of the practical success or failure of Marx's concepts as each has been employed in the history of Marxist movements. When we have affected this inventory and grouped together the successful concepts, what we are left with is a materialist Marxism, a Marxism which endorses the scientific method as the best way for understanding ourselves and our potential but that also understands that this method is fallible. Remaining also is a Marxism which does not subscribe to any philosophy of history and which certainly does not maintain that capitalism will inevitably lead to communism. This Marxism has no system of interrelated concepts that guarantee a scientific analysis. Further, it possesses no worked out theory of the relations between economic structures and cultural structures but for that limited knowledge which scientific practice provides. Finally, this Marxism has given up the dream of analyzing the whole of culture and its movement from the outside; it realizes that one thinks inside and about the culture one inhabits in order to possibly effect and change that culture.

## Modules

### Link—Qualified Immunity

#### [tag omitted]

McLeod 16 [ALLEGRA M. MCLEOD (Professor of Law, Georgetown University Law Center). “Introduction: Confronting the Carceral State.” *THE GEORGETOWN LAW JOURNAL* 1406 [Vol. 104:1405, 2016] http://georgetownlawjournal.org/files/2016/08/mcleod-carceral-state.pdf // WWXR]

Although legal remedies in the aftermath of police violence, like “pattern and practice” investigations pursued by the U.S. Department of Justice, may bring about certain improvements in police practices, Butler shows why civil rights and procedural remedies are inadequate to realize the more fundamental transformation necessary to redress racial profiling, excessive force, and antiblack racism. For example, Butler underscores that after federal investigations of police practices in Los Angeles, the level of policing actually increased substantially—resulting in more stops and frisks and more arrests.33 Instead, Butler contends the police should simply “stop it”—stop engaging in racially predatory policing and physical brutality in favor of more affirmative and less oppressive interventions to address significant crime.34 In this regard, Butler aligns his analysis with the Black Lives Matter movement and others who call for a third reconstruction, prison abolition, and effective dismantling of institutional racism and inequality.35 This abolitionist call serves as a framing provocation for this symposium to which we will return soon.36 Devon Carbado introduces another explanatory account of the persistence of police abuse of African-Americans. In Blue-on-Black Violence: A Provisional Model of Some of the Causes, Carbado demonstrates how various social factors converge to expose African-Americans to excessive police contact and scrutiny: racial segregation, relative economic disenfranchisement, racial bias, the vast criminalization of minor misconduct, and minimal constraints on policing of petty street-level infractions.37 This increased exposure to police surveillance renders African-Americans more vulnerable to police violence, primarily because they are subject to more frequent police encounters.38 At the same time, the organizational culture of police departments often implicitly encourages the use of force. After police have used force—even deadly force—judges and other legal actors evaluating police conduct frequently regard the use of force as legally justifiable. Legal doctrines such as qualified immunity further inhibit successful legal challenges to police abuse while immunizing police from financial consequences for their actions.39 In combination, these barriers to legal sanctions or other remedies communicate to police officers that there will be minimal penalties, if any, for a failure to exercise care in deploying violent force.40 Carbado suggests that these features together render blue-on-black violence a structural problem requiring structural reform, rather than measures that address only the behavior of errant officers.41

#### [tag omitted]

Whitehead 16 [John W. Whitehead (The Rutherford Institute). ‘We the Prisoners’: The Demise of the Fourth Amendment. <http://www.informationclearinghouse.info/article45036.htm> 2016.]

“Our carceral state banishes American citizens to a gray wasteland far beyond the promises and protections the government grants its other citizens… When the doors finally close and one finds oneself facing banishment to the carceral state—the years, the walls, the rules, the guards, the inmates—reactions vary. Some experience an intense sickening feeling. Others, a strong desire to sleep. Visions of suicide. A deep shame. A rage directed toward guards and other inmates. Utter disbelief. The incarcerated attempt to hold on to family and old social ties through phone calls and visitations. At first, friends and family do their best to keep up. But phone calls to prison are expensive, and many prisons are located far from one’s hometown… As the visits and phone calls diminish, the incarcerated begins to adjust to the fact that he or she is, indeed, a prisoner. New social ties are cultivated. New rules must be understood.”—Ta-Nehisi Coates, The Atlantic In a carceral state—a.k.a. a prison state or a police state—there is no Fourth Amendment to protect you from the overreaches, abuses, searches and probing eyes of government overlords. In a carceral state, there is no difference between the treatment meted out to a law-abiding citizen and a convicted felon: both are equally suspect and treated as criminals, without any of the special rights and privileges reserved for the governing elite. In a carceral state, there are only two kinds of people: the prisoners and the prison guards. With every new law enacted by federal and state legislatures, every new ruling handed down by government courts, and every new military weapon, invasive tactic and egregious protocol employed by government agents, “we the people”—the prisoners of the American police state—are being pushed that much further into a corner, our backs against the prison wall. This concept of a carceral state in which we possess no rights except for that which the government grants on an as-needed basis is the only way I can begin to comprehend, let alone articulate, the irrational, surreal, topsy-turvy, through-the-looking-glass state of affairs that is being imposed upon us in America today. As I point out in my book Battlefield America: The War on the American People, we who pretend we are free are no different from those who spend their lives behind bars. Indeed, we are experiencing much the same phenomenon that journalist Ta-Nehisi Coates ascribes to those who are banished to a “gray wasteland far beyond the promises and protections the government grants its other citizens” : a sickening feeling, a desire to sleep, hopelessness, shame, rage, disbelief, clinginess to the past and that which is familiar, and then eventually resignation and acceptance of our new “normal.” All that we are experiencing—the sense of dread at what is coming down the pike, the desperation, the apathy about government corruption, the deeply divided partisanship, the carnivalesque political spectacles, the public displays of violence, the nostalgia for the past—are part of the dying refrain of an America that is fading fast. No longer must the government obey the law. Likewise, “we the people” are no longer shielded by the rule of law. While the First Amendment—which gives us a voice—is being muzzled, the Fourth Amendment—which protects us from being bullied, badgered, beaten, broken and spied on by government agents—is being disemboweled. For instance, in a recent 5-3 ruling in Utah v. Strieff, the U.S. Supreme Court opened the door for police to stop, arrest and search citizens without reasonable suspicion or probable cause, effectively giving police a green light to embark on a fishing expedition of one’s person and property, rendering Americans completely vulnerable to the whims of any cop on the beat. In a blistering dissent, Justice Sonia Sotomayor blasted the court for holding “that the discovery of a warrant for an unpaid parking ticket will forgive a police officer’s violation of your Fourth Amendment rights.” Sotomayor continued: This Court has allowed an officer to stop you for whatever reason he wants—so long as he can point to a pretextual justification after the fact. That justification must provide specific reasons why the officer suspected you were breaking the law, but it may factor in your ethnicity, where you live, what you were wearing, and how you behaved. The officer does not even need to know which law you might have broken so long as he can later point to any possible infraction—even one that is minor, unrelated, or ambiguous. The indignity of the stop is not limited to an officer telling you that you look like a criminal. The officer may next ask for your “consent” to inspect your bag or purse without telling you that you can decline. Regardless of your answer, he may order you to stand “helpless, perhaps facing a wall with [your] hands raised.” If the officer thinks you might be dangerous, he may then “frisk” you for weapons. This involves more than just a pat down. As onlookers pass by, the officer may “‘feel with sensitive fingers every portion of [your] body. A thorough search [may] be made of [your] arms and armpits, waistline and back, the groin and area about the testicles, and entire surface of the legs down to the feet.’” If you still can’t read the writing on the wall, Sotomayor breaks it down further: “This case allows the police to stop you on the street, demand your identification, and check it for outstanding traffic warrants—even if you are doing nothing wrong… So long as the target is one of the many millions of people in this country with an outstanding arrest warrant, anything the officer finds in a search is fair game for use in a criminal prosecution. The officer’s incentive to violate the Constitution thus increases...” Just consider some of the many other ways in which the Fourth Amendment—which ensures that the government can’t harass you, let alone even investigate you, without probable cause—has been weakened and undermined by the courts, the legislatures and various government agencies and operatives. Breath tests, blood draws: Americans have no protection against mandatory breathalyzer tests at a police checkpoint, although mandatory blood draws violate the Fourth Amendment (Birchfield v. North Dakota). Ignorance of the law is defensible if you work for the government: Police officers who violate the law can be granted qualified immunity if they claim ignorance of the law (Heien v. North Carolina). That rationale was also applied to police who clearly used excessive force when they repeatedly tasered a pregnant woman during a routine traffic stop and were granted immunity from prosecution (Brooks v. City of Seattle). High-speed car chases: Police officers can use lethal force in car chases without fear of lawsuits (Plumhoff v. Rickard). No-knock raids: Police can perform a “no-knock” as long as they have a reasonable suspicion that knocking and announcing their presence, under the particular circumstances, would be dangerous or futile or give occupants a chance to destroy evidence of a crime (Richards v. Wisconsin). Legal ownership of a firearm is also enough to justify a no-knock raid by police (Quinn v. Texas). Warrantless searches by police: Police can carry out warrantless searches on our homes based on a “reasonable” concern by police that a suspect (or occupant) might be attempting to destroy evidence, fleeing or hurt, even if it’s the wrong house (Kentucky v. King). Police can also, without a warrant, search anyone who has been lawfully arrested (United States v. Robinson) as well as their property post-arrest (Colorado v. Bertine) and their vehicle (New York v. Belton), search a car they suspect might contain evidence of a crime (Chambers v. Maroney), and search a home when the arrest is made on its premises (Maryland v. Buie). Forced DNA extractions: Police can forcibly take your DNA, whether or not you’ve been convicted of a crime. Innocent or not, your DNA will then be stored in the national FBI database (Maryland v. King). Strip searches: Police can subject Americans to virtual strip searches, no matter the “offense” (Florence v. Board of Chosen Freeholders of the County of Burlington). This “license to probe” is now being extended to roadside stops, as police officers throughout the country have begun performing roadside strip searches—some involving anal and vaginal probes—without any evidence of wrongdoing and without a warrant. Seizures: For all intents and purposes, you’re “seized” within the meaning of the Fourth Amendment from the moment an officer stops you (Brendlin v. California). Search warrants on a leash: Police have free reign to use drug-sniffing dogs as “search warrants on leashes,” justifying any and all police searches of vehicles stopped on the roadside (Florida v. Harris), but the use of a K-9 unit after a reasonable amount of time has passed during a stop does violate the Fourth Amendment (Rodriguez v. United States). Police and DUI Checkpoints: Police can conduct sobriety and “information-seeking” checkpoints (Illinois v. Lidster and Mich. Dep't of State Police v. Sitz). Interrogating public transit passengers: Police officers are free to board a bus, question passengers, and ask for consent to search without notifying them of their right to refuse (U.S v. Drayton). Warrantless arrests for minor criminal offenses: Police can arrest you for minor criminal offenses, such as a misdemeanor seatbelt violation, punishable only by a fine (Atwater v. City of Lago Vista). Stop and identify: Refusing to answer when a policeman asks “What’s your name?” can rightfully be considered a crime. No longer do Americans, even those not charged with any crime, have the right to remain altogether silent when stopped and questioned by a police officer (Hiibel v. Sixth Judicial District Court of the State of Nevada). Traffic stops: As long as police have reasonable cause to believe that a traffic violation occurred, they may stop any vehicle (Whren v. U.S.). If probable cause justifies a vehicle search, then every part of the vehicle can be searched (U.S. v. Ross). A vehicle can be stopped even if the driver has not committed a traffic offense (U.S. v. Cortez). Anonymous tips, careful driving, rigid posture and acne: Police officers can stop cars based only on “anonymous” tips (Navarette v. California). Police can also pull you over if you are driving too carefully, with a rigid posture, taking a scenic route, and have acne (U.S. v. Westhoven). What many Americans fail to understand is the devastating amount of damage that can be done to one’s freedoms long before a case ever makes its way to court by government agents who are violating the Fourth Amendment at every turn. This is how freedoms, long undermined, can give way to tyranny through constant erosion and become part of the fabric of the police state through constant use. Phone and email surveillance, databases for dissidents, threat assessments, terror watch lists, militarized police, SWAT team raids, security checkpoints, lockdowns, roadside strip searches: there was a time when any one of these encroachments on our Fourth Amendment rights would have roused the public to outrage. Today, such violations are shrugged off matter-of-factly by Americans who have been assiduously groomed to accept the intrusions of the police state into their private lives. So when you hear about the FBI hacking into Americans’ computers without a warrant with the blessing of the courts, or states assembling and making public terror watch lists containing the names of those who are merely deemed suspicious, or the police knocking on the doors of activists in advance of political gatherings to ascertain their plans for future protests, or administrative government agencies (such as the FDA, Small Business Administration, Smithsonian, Social Security, National Oceanic and Atmospheric Administration, U.S. Mint, and Department of Education) spending millions on guns and ammunition, don’t just matter-of-factly file it away in that part of your brain reserved for things you may not like but over which you have no control. It’s true that there may be little the average person can do to push back against the police state on a national level, but there remains some hope at the local level as long as we retain a speck of our independence and individuality—as long as we can resist the defeatist sense of double-consciousness (a phrase coined by W. E. B. Du Bois in which we view ourselves as inferior through the prism of our oppressors)—as long as we continue to cry out for justice for ourselves and those around us—as long as we refuse to be shackled and made prisoners—and as long as we continue to recognize that the only way the police state can truly acquire and retain power is if we relinquish it through our negligence, complacence and ignorance. Unfortunately, we have been utterly brainwashed into believing the government’s propaganda and lies. Americans actually celebrate with perfect sincerity the anniversary of our independence from Great Britain without ever owning up to the fact that we are as oppressed now—more so, perhaps, thanks to advances in technology—than we ever were when Redcoats stormed through doorways and subjected colonists to the vagaries of a police state. You see, by gradually whittling away at our freedoms—free speech, assembly, due process, privacy, etc.—the government has, in effect, liberated itself from its contractual agreement to respect our constitutional rights while resetting the calendar back to a time when we had no Bill of Rights to protect us from the long arm of the government. Aided and abetted by the legislatures, the courts and Corporate America, the government has been busily rewriting the contract (a.k.a. the Constitution) that establishes the citizenry as the masters and agents of the government as the servants. We are now only as good as we are useful, and our usefulness is calculated on an economic scale by how much we are worth—in terms of profit and resale value—to our “owners.” Under the new terms of this one-sided agreement, the government and its many operatives have all the privileges and rights and “we the prisoners” have none. As Sotomayor concluded in her ringing dissent in Utah v. Strieff: By legitimizing the conduct that produces this double consciousness, this case tells everyone, white and black, guilty and innocent, that an officer can verify your legal status at any time. It says that your body is subject to invasion while courts excuse the violation of your rights. It implies that you are not a citizen of a democracy but the subject of a carceral state, just waiting to be cataloged. We must not pretend that the countless people who are routinely targeted by police are “isolated.” They are the canaries in the coal mine whose deaths, civil and literal, warn us that no one can breathe in this atmosphere. They are the ones who recognize that unlawful police stops corrode all our civil liberties and threaten all our lives. Until their voices matter too, our justice system will continue to be anything but.

### Link—Body Cameras

[omitted]

### Alt—Abolition

#### Voting negative is a pedagogical act. Your ballot contributes to a larger continuum of liberation movements that are not constrained by what is “practical” or “possible.” A radical break from the prison and the police is prior to any other question---policy changes need to be put on the backburner. As teachers you are obligated to betray the modern technologies of genocide management present in the prison.

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(Dylan, Professor and Chair of the Department of Ethnic Studies at UC Riverside, “The Disorientation of the Teaching Act: Abolition as Pedagogical Position,” Radical Teacher, Number 88, Summer 2010, Project MUSE)//a-berg

Finally, the horizon of the possible is only constrained by one’s pedagogical willingness to locate a particular political struggle (here, prison abolition) within the long and living history of liberation movements. In this context, “prison abolition” can be understood as one important strain within a continuously unfurling fabric of liberationist political horizons, in which the imagination of the possible and the practical is shaped but not limited by the specific material and institutional conditions within which one lives. It is useful to continually ask: on whose shoulders does one sit, when undertaking the audacious identifications and political practices endemic to an abolitionist pedagogy? There is something profoundly indelible and emboldening in realizing that one’s “own” political struggle is deeply connected to a vibrant, robust, creative, and beautiful legacy of collective imagination and creative social labor (and of course, there are crucial ways of comprehending historical liberation struggles in all their forms, from guerilla warfare to dance). While I do not expect to arrive at a wholly satisfactory pedagogical endpoint anytime soon, and am therefore hesitant to offer prescriptive examples of “how to teach” within an abolitionist framework, I also believe that rigorous experimentation and creative pedagogical radicalism is the very soul of this praxis. There is, in the end, no teaching formula or pedagogical system that finally fulfills the abolitionist social vision, there is only a political desire that understands the immediacy of struggling for human liberation from precisely those forms of systemic violence and institutionalized dehumanization that are most culturally and politically sanctioned, valorized, and taken for granted within one’s own pedagogical moment. To refuse or resist this desire is to be unaccountable to the historical truth of our moment, in which the structural logic and physiological technologies of social liquidation (removal from or effective neutralization within civil society) have merged with history’s greatest experiment in punitive human captivity, a linkage that increasingly lays bare racism’s logical outcome in genocide.[18](http://muse.jhu.edu/journals/radical_teacher/v088/88.rodriguez.html#f18) Abolitionist Position and Praxis Given the historical context I have briefly outlined, and the practical-theoretical need for situating an abolitionist praxis within a longer tradition of freedom struggle, I contend that there can be no liberatory teaching act, nor can there be an adequately critical pedagogical practice, that does not also attempt to become an abolitionist one. Provisionally, I am conceptualizing abolition as a praxis of liberation that is creative and experimental rather than formulaic and rigidly programmatic. Abolition is a “radical” political position, as well as a perpetually creative and experimental pedagogy, because formulaic approaches cannot adequately apprehend the biopolitics, dynamic statecraft, and internalized violence of genocidal and proto-genocidal systems of human domination. As a productive and creative praxis, this conception of abolition posits the material possibility and historical necessity of a social capacity for human freedom based on a cultural-economic infrastructure that supports the transformation of oppressive relations that are the legacy of genocidal conquest, settler colonialism, racial slavery/capitalism,[19](http://muse.jhu.edu/journals/radical_teacher/v088/88.rodriguez.html#f19) compulsory hetero-patriarchies, and global white supremacy. In this sense, abolitionist praxis does notsingularly concern itself with the “abolition of the prison industrial complex,” although it fundamentally and strategically prioritizes the prison as a central site for catalyzing broader, radical social transformations. In significant part, this suggests envisioning and ultimately constructing “a constellation of alternative strategies and institutions, with the ultimate aim of removing the prison from the social and ideological landscape of our society.”[20](http://muse.jhu.edu/journals/radical_teacher/v088/88.rodriguez.html#f20) In locating abolitionist praxis within a longer political genealogy that anticipates the task of remaking the world under transformed material circumstances, this position refracts the most radical and revolutionary dimensions of a historical Black freedom struggle that positioned the abolition of “slavery” as the condition of possibility for Black—hence “human”—freedom. To situate contemporary abolitionism as such is also to recall the U.S. racist state’s (and its liberal allies’) displacement and effective political criminalization of Black radical abolitionism through the 13th Amendment’s 1865 recodification of the slave relation through the juridical reinvention of a racial-carceral relation: Given the institutional elaborations of racial criminalization, policing, and massive imprisonment that have prevailed on the 13th Amendment’s essential authorization to replace a regime of racist chattel slavery with racist carceral state violence, it is incumbent on the radical teacher to assess the density of her/his entanglement in this historically layered condition of [End Page 15] violence, immobilization, and capture. Prior to the work of formulating an effective curriculum and teaching strategy for critically engaging the prison industrial complex, in other words, is the even more difficult work of examining the assumptive limitations of any “radical pedagogy” that does not attempt to displace an epistemological and cultural common sense in which the relative order and peace of the classroom is perpetually reproduced by the systemic disorder and deep violence of the prison regime. In relation to the radical challenging of common sense discussed above, another critical analytical tool for building an abolitionist pedagogy entails the rigorous, scholarly dismantling of the “presentist” and deeply ahistorical understanding of policing and prisons. Students (and many teachers) frequently enter such dialogues with an utterly mystified conception of the policing and prison apparatus, and do not generally understand that 1) these apparatuses in their current form are very recent creations, and have not been around “forever”; and 2) the rise of these institutional forms of criminalization, domestic war, and mass-scale imprisonment forms one link in a historical chain of genocidal and proto-genocidal mobilizations of the racist state that regularly take place as part of the deadly global process of U.S. nation-building. In other words, not only is the prison regime a very recent invention of the state (and therefore is neither a “permanent” nor indestructible institutional assemblage), but it is institutionally and historically inseparable from the precedent and contemporaneous structures of large-scale racist state violence. Asserting the above as part of the core analytical framework of the pedagogical structure can greatly enable a discussion of abolitionist possibility that thinks of the critical dialogue as a necessary continuation of long historical struggles against land conquest, slavery, racial colonialism, and imperialist war. This also means that our discussions take place within a longer temporal community with those liberation struggles, such that we are neither “crazy” nor “isolated.” I have seen students and teachers speak radical truth to power under difficult and vulnerable circumstances based on this understanding that they are part of a historical record. I have had little trouble “convincing” most students—across distinctions of race, class, gender, age, sexuality, and geography—of the gravity and emergency of our historical moment. It is the analytical, political, and practical move toward an abolitionist positionality that is (perhaps predictably) far more challenging. This is in part due to the fraudulent and stubborn default position of centrist-to-progressive liberalism/reformism (including assertions of “civil” and “human” rights) as the only feasible or legible response to reactionary, violent, racist forms of state power. Perhaps more troublesome, however, is that this resistance to engaging with abolitionist praxis seems to also derive from a deep and broad epistemological and cultural disciplining of the political imagination that makes liberationist dreams unspeakable. This disciplining is most overtly produced through hegemonic state and cultural apparatuses and their representatives (including elected officials, popular political pundits and public intellectuals, schools, family units, religious institutions, etc.), but is also compounded through the pragmatic imperatives of many liberal and progressive nonprofit organizations and social movements that reproduce the political limitations of the [End Page 16] nonprofit industrial complex.[22](http://muse.jhu.edu/journals/radical_teacher/v088/88.rodriguez.html#f22) In this context, the liberationist historical identifications hailed by an abolitionist social imagination also require that such repression of political-intellectual imagination be fought, demystified, and displaced. Perhaps, then, there is no viable or defensible pedagogical position other than an abolitionist one. To live and work, learn and teach, and survive and thrive in a time defined by the capacity and political willingness to eliminate and neutralize populations through a culturally valorized, state sanctioned nexus of institutional violence, is to better understand why abolitionist praxis in this historical moment is primarily pedagogical, within and against the “system” in which it occurs. While it is conceivable that in future moments, abolitionist praxis can focus more centrally on matters of (creating and not simply opposing) public policy, infrastructure building, and economic reorganization, the present moment clearly demands a convening of radical pedagogical energies that can build the collective human power, epistemic and knowledge apparatuses, and material sites of learning that are the precondition of authentic and liberatory social transformations. The prison regime is the institutionalization and systemic expansion of massive human misery. It is the production of bodily and psychic disarticulation on multiple scales, across different physiological capacities. The prison industrial complex is, in its logic of organization and its production of common sense, at least proto-genocidal. Finally, the prison regime is inseparable from—that is, present in—the schooling regime in which teachers are entangled. Prison is not simply a place to which one is displaced and where one’s physiological being is disarticulated, at the rule and whim of the state and its designated representatives (police, parole officers, school teachers). The prison regime is the assumptive premise of classroom teaching generally. While many of us must live in labored denial of this fact in order to teach as we must about “American democracy,” “freedom,” and “(civil) rights,” there are opportune moments in which it is useful to come clean: the vast majority of what occurs in U.S. classrooms—from preschool to graduate school—cannot accommodate the bare truth of the proto-genocidal prison regime as a violent ordering of the world, a primary component of civil society/school, and a material presence in our everyday teaching acts. As teachers, we are institutionally hailed to the service of genocide management, in which our pedagogical labor is variously engaged in mitigating, valorizing, critiquing, redeeming, justifying, lamenting, and otherwise reproducing or tolerating the profound and systemic violence of the global-historical U.S. nation building project. As “radical” teachers, we are politically hailed to betray genocide management in order to embrace the urgent challenge of genocide abolition. The short-term survival of those populations rendered most immediately vulnerable to the mundane and spectacular violence of this system, and the long-term survival of most of the planet’s human population (particularly those descended from survivors of enslavement, colonization, conquest, and economic exploitation), is significantly dependent on our willingness to embrace this form of pedagogical audacity.

#### The role of the ballot is to political engage with prison abolition. Political discourse in scholarship must promote a politics of imagination of envisioning the end of the prison. Public discourse in the academy serves a unique role, Rodríguez 10

Professor and Chair of Ethnic Studies @ UC Riverside [Dr. Dylan Rodríguez, “The Terms of Engagement: Warfare, White Locality, and Abolition,” Critical Sociology 36(1) pg. 151-173

What were the fundamental concerns of our progressive organizations and movements during this time, and were they willing to comprehend and galvanize an effective, or even viable opposition to the white supremacist state’s terms of engagement (that is, warfare)? This radical accountability reflects a variation on anticolonial liberation theorist Frantz Fanon’s memorable statement to his own peers, comrades, and nemeses: Each generation must discover its mission, fulfill it or betray it, in relative opacity. In the underdeveloped countries preceding generations have simultaneously resisted the insidious agenda of colonialism and paved the way for the emergence of the current struggles. Now that we are in the heat of combat, we must shed the habit of decrying the efforts of our forefathers or feigning incomprehension at their silence or passiveness. (Fanon 2004 [1963]: 146) Lest we fall victim to a certain political nostalgia that is often induced by such illuminating Fanonist exhortations, **we** ought to clarify the premises of the social ‘mission’that our generation of USA-based progressive organizing has undertaken. In the vicinity of the constantly retrenching social welfare apparatuses of the US state, much of the most urgent and immediate work of community-based organizing has revolved around service provision. Importantly, this pragmatic focus also builds a certain progressive ethic of voluntarism that constructs the model activist as a variation on older liberal notions of the ‘good citizen’. Following Fanon, **the question is whether and how this mission ought to be fulfilled or betrayed**. To respond to **this political problem requires an analysis** and conceptualization of ‘the state’ **that is far more complex** and laborious **than we usually allow in our** ordinary **rush of obligations to build campaigns**, organize communities, and write grant proposals. **We require**, in other words**, a** scholarly activist framework **to understand that the state** can and must be radically confronted on multiple fronts by an abolitionist social theory. Effectively contradicting, decentering, and transforming the popular consensus (for example, destabilizing assertive assumptions common to progressive movements and organizations such as ‘we have to control/get rid of gangs,’ ‘we need prisons,’ or ‘we want¶ better police’) is, in this context, dangerously difficult work. Although the truth of the matter is that the establishment US left, in ways both spoken and presumed, may actually agree with the political, moral, and ideological premises of domestic warfare. Leaders as well as rank-and-file members in avowedly **progressive[s]** organizations can and **must reflect on how they might actually be supporting and reproducing existing forms of racism, white supremacy, state violence, and domestic warfare in the process of throwing their resources behind** **what they perceive as ‘**winnable victories**’**, in the lexicon of venerable community organizer Saul Alinsky. Arguably, **it is precisely the creative and pragmatic work of** political fantasy/political vision/political imagination **that is the** most underdeveloped **dimension of the** US establishment **left’s organizational modus operandi and public discourse**. While a full discussion is best left for sustained collective discussion, **we might consider the** **post**-19**60s** **history of** the reactionary, neoconservative, and Christian fundamentalist US right, **which has fully and**¶ **eagerly engaged in these political labors of** fantasy/vision/imagination**, and has seen the desires of their wildest dreams met or exceeded in their struggles for political and cultural hegemony**. **It might be useful to begin by thinking of ourselves as existing in a relationship** **of deep historical obligation to** the long and recent, faraway and nearby historical legacies of **radical, revolutionary, and liberationist struggles that have made the abolition of oppressive violence their most immediate and fundamental political desire**. Pg. 165-170

#### Only an abolitionist pedagogy that challenges the invisibility of domestic state violence can build a non-killing future world

Loyd 11

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The relative invisibility **of domestic state violence** vis-à-vis war constrains the imagination and imperative **for building just, free, and peaceful futures, internationally and domestically**. Domestic practices of state violence (namely policing and **imprisonment**) are frequently treated as inherently more legitimate than war-making because these practices are founded in popular sovereignty. Yet, these **institutions reproduce racial, gender, class, and sexual relations of hierarchy and domination that contribute to family separation, community fragmentation, labor exploitation and premature death**. **Building a** nonkilling future, thus, **means challenging** the state’s organization for violence that are practiced domestically in the form of defense (military-industrial complex) and in the form of **prisons** and policing **as the “answer” to social and economic problems** ranging from poverty, to boisterous youth, to human migration, and drug use (Braz, 2008; Gilmore and Gilmore, 2008). It takes sustained ideological work to contain “war” as the only form of state violence and to contain the good sense that war’s harms cannot be confined to weapons, neatly demarcated battlefields, and declarations of wars’ conclusions. **Building critiques of and movements against state violence means** confronting hegemonic frames **that understand state violence as exceptional, rather than as normal practices structuring** both international relations and **domestic governance.** It means asking why denunciations of the “war at home” sound hyperbolic to some Americans. It means asking in what ways domestic practices of state violence are practiced elsewhere and international practices are imported. Such cross-boundary traffic in practices (and personnel) of policing, imprisonment and war-making are important for showing that the lines between foreign and domestic, war and peace, civilian and military are constantly blurred. This in turn highlights the tremendous ideological work that goes into maintaining these boundaries, and the material consequences such geographical imaginations have on people’s lives and the places in which they live. This is not to say that the war at home and war abroad are the same or necessarily have the same intensity. Rather it is to trace the frame of exceptionalism that structures the relations between these places in ways that facilitate violence in both places. As we have seen, **the invisibility and naturalization of** state violence in the form of **the prison is** one of **the most overlooked sites of** American exceptionalism, critiques **of US state violence**, and of antiwar efforts. **For precisely this reason, attentions should be placed** **on challenging the prison regime** as one aspect of building nonkilling futures. For this historical moment, Dylan Rodríguez argues that **undoing the naturalization** of such commonplace violence, **centers squarely on an** abolitionist pedagogy **that works “against the assumptive necessity, integrity, and taken-for-grantedness of prisons**, policing, **and the normalized state violence they reproduce**” (2010: 9). **Dismantling prisons is about dismantling relations of white supremacy, heteropatriarchy and economic exploitation that undermine the possibilities for freedom and human flourishing.** **Prison abolition has an** expansive antiviolence imperative **that necessarily demands an end to connected practices of war, colonial dispossession, and imperial rule. Abolitionist imaginations** challenge violent suppression **of human freedom and offer** important visions for forging links **among different sectors of anti-violence organizing**. **We might look for example to** **the** nineteenth century international **slavery abolition movement** **or** more recently to **the nonaligned movement** of (formerly) colonized nations, **which regarded ending the Cold War as a condition for political autonomy and fulfilling human needs** (Prashad 2007). Likewise, for civil rights organizers in the US South, the abolition of Cold War annihilation was predicated on domestic peace, which could only be won through freedom, that is overthrowing the legal and extralegal relations of white supremacy (Loyd, 2011). Creating the possibilities for nonviolent resolution of social conflict is a recognized aim of antiwar or peace organizing. **Prison abolition** too **is premised on dismantling the prison as a solution for social conflict and for creating the possibilities for freedom and human flourishing.** As Andrew Burridge, Matt Mitchelson, and I (2009-2010) write: “**Building economies and community institutions that foster creativity, care, self-determination and mutual responsibility are among the abolitionist visions** for a just society. That is, **abolition is a vision for the future that can guide current action for making communities that create real safety and meet people’s needs**.” **Abolition links dreams of peace and freedom.** **Abolitionism critically analyzes how dominant categorizations of governance and sovereignty are premised on** **(categorical) unfreedom. Making these links** in practice **means recognizing how the** prison underpins violent domination on a world scale. **Abolition** is thereby **offers** imperative theoretical vision and practical means **for building nonkilling futures**. Pg. 119-121

### Extra Constantinou

#### [tag omitted]

Constantinou 12[Constantinou, Marios (University of Cyprus). “Venus Imperatrix: The Moods of Empire.” *Parallax* 18.4, 2012. pp. 5–7. // WWXR 2016-5-8]

Isn’t this relentless opportunism of incessant reduplication what is missing from Hardt and Negri’s biopolitical economy of affective labour? Simulated intelligence is unavoidably the form taken by the post-Fordist virtualization of biopower. It is in these terms that it appears impossible to distinguish between secret and overt intelligence, oiled academics and lumpen bohemians, war and peace, neo-liberalism and socialism, the communism of capital and the communism of the multitude, Right and Left, Empire and Imperialism, biopower and biopolitics. This new age of gilded Imperialism can only be realized in terms of a biopolitical osmosis which Paul Virilio depicts as a state of impossible distinction between ‘economic war and information war, since each involves the same hegemonic ambition of making commercial and military exchanges interactive.’12 What we are currently faced with is, indeed, an interactive opportunism of the new occupations of Empire. This vanity of spurious and ineffective duplications is what precisely defines the biopolitical outlook of the new civic nomenclature of Empire. Nonetheless, the interactive neocorporatism characterizing the new occupations of Empire comes into being through layers of what may be called cumulative imperialism. The global casino capitalism of debt pyramids, financial bubbles, Popperian open societies and Hayekian free markets evangelized by the billionaire arch-cynic and exemplary non-state agent George Soros is embedded in patterns, thresholds, scales and disciplinary programs of transnational biopolitical conditioning which, however, resonate with an intensive geopolitical morphogenesis. The latter increasingly bears the characteristics of what Virilio calls biocracy – for example, re-Balkanization or re-Sicilianization.13

This disaster capitalism, which consists primarily of neo-liberal shock therapies, is expected to induce desubjectiviz[e]ing traumas; intended to reduce existing political bodies into helpless beggars and lobotomized mob agents and supplemented by topological upheavals: the depatterning of nations, their remixing and conversion into an abused clientele of experimental IMF tribunals distributing charity with austerity. Judicial laboratories duplicate the experimental electroshocks suggested by the venerable science of high finance, cleansing resistances to free-market reforms. Such a geographical decomposition of peripheral nations and peoples is sustained by the subsumption and cumulative simulation of the methodologies of antecedent imperia – Roman, British, Ottoman, Austro-Hungarian and German. Let us be aware, however, that this visionary and nostalgic drifting of imperial intelligence which recuperates and simulates antecedent methods of geopolitical rule is not a docile repetition. For instance, different climaxes of unimpeached imperial peace enacted successively by Pax Romana, Pax Brittanica, Pax Ottomanica and so forth, are presently remodalized in terms of ‘peace processes without end, which stagnate conflicts in complex, inviolable legal configurations that make permanent military mediation necessary’.14 Pax Americana is precisely this legal academicism of state terror which duplicates, minutely and surgically, an exhibitionistic illegality. Terror before the abyss of imperial ego is removed, Adorno writes, ‘by the consciousness of being concerned with nothing so very different from arthritis or sinus trouble. Thus conflicts lose their menace. They are accepted, but by no means cured, being merely fitted as an unavoidable component into the surface of standardized life.’15

Hence remodalization is already remoodalization. The Empire’s affective nostalgia for a self-duplication of authoritative methodologies of imperial peace becomes a parallax 5 displacement of the death drive of finance cannibalism, military intervention and intelligence wars. These polarizing yet programmatic moods are reminiscent of Freud’s cases of polymorphous perversion. It is a known lesson but, curiously, always forgotten. Elegant gentility, decorum, etiquette and tact have always been constitutive of the affective habitus of Empire along with its bellicose death-drive. Being an austere service bureaucrat and battlefield killer, racist and paramour of the exotic, paternalist and infantile, humanist and a hitman, impersonal conformist and neurotically detached individualist, detective and poe`te maudit are not simply conflicting character themes extracted from the spy thrillers of Sherlock Holmes or James Bond.16 The affective constitution of Empire is literally a Falstaffian compendium of protracted and intractable infantile disorders, splits, facets and postures of unqualified superiority. They are not simply selected filmed scenes from Shakespearean plays or spy romance scenarios. They are the prevailing moods of the androgynous Empire of Christine Lagarde, Angela Merkel and Nikolas Sarkozy. It is the quotidian affective repertoire of the IMF command structure.

Although highly equivocal, this extravagant fancy is sufficiently didactic. Wasn’t this the ultimate anti-imperialist teaching of Lucretius? The Roman Venus Imperatrix deceived her lovers with counterfeit images and imperial simulacra. Yet that was precisely the most treacherous affect of Empire. Stalemate, implosion, lust, conspiracy, treason and fiasco are still the inherent risks of imperial sorcery; of the paralyzing power of financial simulacra. The ex-IMF commander Dominique Strauss Kahn is in this case the absolute synthetic alter ego of Nikolas Sarkozy and Sylvio Berlusconi. Two in One. The concept that may better describe this fascinating, though failed, simulation is rentier carnality.

Empire is, indeed, this self-seduction of money perpetually owing to itself an unpaid libido, a fictitious financing of the incurred anxiety for an unsettled debt. It delineates an underlying affective economy halfway between corporate intelligence, professional authority, expertise and sound reasoning, on the one hand, and the seemliness of savoir-faire, the ritual proprieties of corporate lifestyle, tact and a subtle continuum between the two harnessed to fictitious capital and immaterial intellect, on the other. The latter is taken literally as the end of thinking. The predicament, Titus Lucretius Carus reminds us in his formidable Book IV of de Rerum Natura, is not so much the gentle affect of amor but the anguished and obsessed voluptas of the imperial playboys:

They clasp the object of their longing so tightly that the embrace is painful. They kiss so fiercely that teeth are driven into lips. All this because their pleasure is not pure, but they are goaded by an underlying impulse to hurt the thing, whatever it may be, that gives rise to these budding shoots of madness.17

This perennial sex scene simulates semi-conscious imperial bodies in action. It captures, in a snapshot, affective automatisms which invoke the paradigmatic imperial virum, the spur to afflict, destroy, punish and martyrize ‘the very thing’ – whatever it is – in order to appropriate what the simulacra promise. It was this posture of imperial simulation that was affronted by the Lucretian recusatio, namely, the coupling of Venus Imperatrix with Venus Simulatrix. This imperial mood par excellence presently combines destructive libido dominandi with the illusory power of financial and political praetorianism. Symptoms of the Lucretian real are manifested in the convulsive spasms of the neo-liberalized body in pain, hunger and bleeding fragility, witnessing geopolitical dismemberment imposed by relentless financial biopower. Yet the very mental shock, which defies symbolization proper and effects desubjectivation, is doubled by a political and representational debacle of master parties, thus shrinking dramatically the space from where the rentier Empire could rearticulate subjection on the basis of a commanding affect such as the assumption of fear. The Epicurean Greece can still threaten with secession from Empire!

We need to retrieve urgently Lucretius’ counter-plea in terms of an anti-imperial critique that will ‘locate the monster not in the private heart of Lucretius but in the horrific spectres of Tityus, Venus Victrix, and the paradigmatic Roman vir’.18 It is this morbo adfectari, the seizure by the disease of striving after Empire that directly or indirectly concerns us in this issue. All contributions testify in one way or another to the antinomical duplicity of Empire and, in this sense, they are doubly revealing as well: they reinforce the spiritual forces of resistance and critique and at the same time complicate them. That is the cunning discipline they all obey discretely in good Foucauldian fashion. The reading scene is well stocked with struggles! This is only an agonistic interludium played in the midst of numberless retreats and counter-attacks.

### Impact—Extinction

#### extinction

**Ahuja 15** [Ahuja, Neel (Associate Professor of Postcolonial Studies at the University of North Carolina, Chapel Hill). “Intimate Atmospheres: Queer Theory in a Time of Extinctions.” *GLQ: A Journal of Lesbian and Gay Studies*. Vol. 21, No. 2 (June 2015). DOI: 10.1215/10642684-2843227 // WWXR 2016-5-8]

To Kill Softly Media representations of climate change struggle to grasp the enormity of killing. The planetary scale of carbon amplification, its association with expanding bodies and displaced destruction, coincides with a spectacular trauma of extinction: ecologically violent uses of land, chemicals, and carbon are accelerating the sixth major extinction event in earth’s history. This “event” (if we can stomach the cool rendering of mass death as a singularity) will commit 18 – 35 percent of extant animal and plant species to extinction by 2050.19 Perhaps one million species will disappear, and countless billions of living bodies will be denied the conditions of life or prematurely killed. Climate-related disasters are accelerating threats to already precarious lifeways: Inuit nations face melting Arctic ice; Maldivians and other islanders lose ground to rising seas; vulnerabilities to infectious disease grow with shrinking water supplies; the world’s agrarian poor face crop diseases, drought, desertification, and food price instability; and all countries face increased weather disasters. The large number of people who depend on subsistence agriculture are already living outside the ecological “boundary parameters” that enabled the rise of modern human societies.20 In this sense, we are already living the future of extinction. The planetary present — not some speculative future — exhibits a staggering scale of “reproductive failure,” human and nonhuman.

Yet small bodies and intimate environments often get lost in big atmospheric narratives. Since its seventeenth-century origins in English, the term atmosphere has signaled the fluid medium of above-ground relations, its contradictory figuration as a space of geology and life, and a background that forges exchange between social and physical processes. Atmospheres can surround big and small bodies, and can shift as bodies entangle and disentangle spatially. With industrial pollution, lower atmospheric space abounds with plumes of toxic gases (methane, carbon dioxide, and carbon monoxide) as well as noncarbon by-products (e.g., nitrous oxide and ozone) that unpredictably concentrate in our bodies as we encounter a busy street, a power plant, or a factory farm. In addition to rising to heights where they can trap solar heat, these gases fix in soil and water, returning unpredictable flows of toxicity to the lithosphere where plants grow. These toxicities — often concentrated in poor and minority communities — contribute to childhood asthma, lung disease, and the spread of various cancers.

In an account of living with toxic sensitivity to airborne heavy metals, Mel Chen describes navigating and transforming unpredictable atmospheres and their conjoined affective and spatial entanglements. The improvisational strategies for prophylaxis — such as donning a particulate mask to avoid exposure to vehicle emissions on a busy street — inevitably conjure public surveillance. “Suited up in both racial skin and chemical mask,” writes Chen, “I am perceived as a walking symbol of contagious disease like SARS, and am often met with some form of repulsion.”21 Chen’s account points to how the materiality of everyday air pollution subtly intertwines with the materiality of race. Race, according to Renisa Mawani, might itself be understood as an atmospherics rather than a “social construction.” Drawing on Fanon’s accounts of race and atmosphere, Mawani explores “race as an affective movement, a force rather than a thing, a current that reconstitutes and reassembles itself in response to its own internal rhythms and to changing social and political conditions.”22 If race is not simply a phenotypic characteristic but an ecology of affective movement and exchange, the effects of carbon pollution — disability, disease, forced migration, and sometimes death — can catalyze the emergence of xenophobic fears about economic and ecological interconnection. Racialized climate reporting draws affective power from senses of pervasive and inescapable environmental pollution. Michael Ziser and Julie Sze detail the persistent geopolitical and racial fears driving US responses to climate change. Contrasting the sentimental domestication of the (white) polar bear in US media with persistent fears of the cross-Pacific migration of Chinese air pollution, Ziser and Sze argue that climate discourses conjure earlier racial panics about “yellow peril” and obscure primary US responsibility for contemporary and historical emissions.23 While such reporting contributes to an atmosphere of fear and crisis, the everyday physicality of climate processes inscribes fear at the site of the skin. Atmosphere names a space of unpredictable touching, attractions, and subtle violences — a space at once geophysical and affective, informed by yet exploding representation, a space where the violences of late-carbon liberalism subtly reform racialized sensoria through shifting scales of interface.

To explore this further I suggest that we think with mosquitoes, mosquitoes both figural and real, mosquitoes that bite, migrate, and feed on various bodies. These are parasites like those in Narayan’s vision of gay plague; they are also strange kin in a warming atmosphere. Mosquitoes excite colonial tropes in environmental discourse — from anthropophagic consumption (feeding on humans) to visions of tropical contagion.24 In the vampiric image of female mosquitoes’ blood feasts — required for their sexual reproduction — there is a counterpoint to the “carnivorous virility” that Carla Freccero attributes to liberal humanist visions of the subject. A small body becomes a predator of the human, forcing strange ecologies of attraction and feeling even as it poses risks of debility and death.25 But the parasite turns out to be feeding on a parasite. Alongside the mosquito, a universalized, waste-expelling human settler appears as the ultimate atmospheric parasite in neoliberal climate discourse. Michel Serres puts the point about scale this way: “The human parasite is of another order relative to that of the animal parasite: the latter is one, the former a set; the latter is time, the former, history; the latter is a garden, the former, a province; to destroy a garden or a world.”26 An organic imperialist, the human colonizes ecologies, time, and thought itself — an entire lifeworld. In the hands of late-carbon liberalism’s human settler, killing takes a form both massive and casual. This figuration is based on some daunting facts of extinction. The everyday activities of carbon-dependent industrial living connect one’s bodily consumption and waste to the “stranger intimacies” of a shared atmosphere, slowly threatening other far-flung bodies, human and nonhuman.27 The effects of waste may kill softly, enmeshed in the deep time and circuitous space of “slow violence,” a “largely unintentional ecocide.”28 From this vantage, beyond its invocation of xenophobic rhetorics of shape-shifting, virality, and contagion, the parasite suggests a problem of knowledge about agency and causality. For this is a human defined by waste rather than by romantic marks of sentience, feeling, or intentionality.

To gloss Berlant, inhabiting late-carbon liberalism produces myths, icons, and feelings that may be “profoundly confirming” despite binding a person or world to situations of “profound threat.”29 Rather than settle comfortably into the assumption of species-derived power — of the destructive and universal human geological agency of “the Anthropocene” — we might say that to recognize that life is ambiently queer is to divest from spectacular temporalities of crisis and transcendence that infuse queer theory and environmentalism alike. Queering in this sense emerges by tracing an affective materiality that interrupts anthropocentric body logics and space-time continuums rather than a sovereign stance of negation in relation to Law, including the law of compulsory reproduction. Thus I interpret “queer inhumanism” as an account of interspecies entanglement and reproductive displacement, an inquiry into the unrealized lifeworlds that form the background of the everyday. This requires thinking askance the human and thinking death, animality, and vulnerability in an age of many extinctions — extinctions of taxonomized species, to be sure, but also more subtle orchestrations of racial precarity and quiet obliterations of histories that could have been. In a time of extinctions, lateral reproduction suggests not some transcendent space of queer negation — or worse, an acceptance of Narayan’s logic of plague — but a problem of rethinking our casual reproduction of forms of ecological violence that kill quietly, outside the spectacular time of crisis.

### Link—Police

#### Police historically were created to oppress

Smith 16- [Smith, Johnathan. Associate Dean, University of DC School of Law. Former litigation chief of Civil Rights in the US Department of Justice. “CLOSING THE GAP BETWEEN WHAT IS LAWFUL AND WHAT IS RIGHT IN POLICE USE OF FORCE JURISPRUDENCE BY MAKING POLICE DEPARTMENTS MORE DEMOCRATIC INSTITUTIONS” Michigan Journal of Race & Law 21.315 (2016). // WWJL]

Since the Europeans enslaved the first Native American in 1492, official force has been used to subjugate people of color.138 The slavery of Africans was enforced by State power even in the face of a movement for abolition; police were used to ensure that slave owners sustained their dominion over the people they claimed as property.139 The naked use of police to enforce White supremacy extended through the period of Jim Crow and was apparent to the Kerner Commission in 1968, when it concluded that police “symbolize white power, white racism and white repression” to many in the Black community.140 With the advent of the civil rights movement, the enactment of the Civil Rights Act141 and other anti-discrimination laws, de jure discrimination by police was outlawed. But Whren’s permission to use pretext to obscure “driving while Black/Brown/Native American,” the disproportionate criminalization of communities of color during the War on Drugs, and the opacity of the police department operations have enabled the oppression of communities of color to continue. Outward uses of shocking force, like Bull Connor’s dogs and fire hoses, have been replaced by stop and frisk, warrant squads, jump out teams, and SWAT. The application of these measures are perceived by many to be applied in a discriminatory fashion.142 Every year, more than one in four people in the United States encounter a police officer.143 But African Americans are significantly more likely to interact with police than Whites, and African Americans are significantly more likely to view their encounters as unjustified.144 Much of White America is screened from the experience of African Americans and other people of color in police encounters. Implicit, and in some cases explicit, biases allow the majority electorate and those in political power to avoid the reality of the African-American community.

Every few years, a high profile case brings the problem of excessive force and racial bias to the forefront of the Nation’s consciousness. There is a flurry of reform initiative but far too quickly the country returns to business as usual. [since] 1984, Eleanor Bumpurs was killed by the New York City police while they were evicting her for being behind in rent.145 While an officer was charged in Bumpurs’s death, he was acquitted.146 Reforms of police practices were implemented in the wake of this shooting.147 In 1992, the acquittal of the officers who beat Rodney King set off a rebellion in Los Angeles.148 In 1994, Ernest Stayon was suffocated and died while Staten Island police handcuffed him, and a grand jury refused to indict.149 Abner Louima, a Haitian immigrant, was beaten and sexually tortured by New York City police in 1997,150 setting off marches and demonstrations.151 In 1999, four officers shot unarmed Amadou Diallo with forty-one bullets in New York.152 Their jury acquittal led to a protest movement.153 The availability of video evidence of police abuse has been a gamechanger and may make modern-day cases different. It is now beyond contention that these are not isolated incidents but institutional failures and that racial bias is built into the system. Cell phone, body-worn, and dashcam videos have made it impossible to deny Black voices and Black testimony regarding abuse during police encounters. Videos have also allowed for media coverage, the importance of which cannot be overstated. This coverage has validated the daily experiences of people in communities of color that have largely been ignored. Since the death of Michael Brown in August 2014, there has been a relentless stream of videos of police shooting unarmed persons, using excessive force, or otherwise engaging in misconduct. This epidemic of misconduct did not just emerge—it has been there all along. The television reports and newspaper photographs of police suppression of the 1950s and ‘60s civil rights movement and of the enforcement of Jim Crow laws had an enormous impact on the success of the passage of the Civil Rights Acts.154 The videos we see today will also be important when we look back at this time from the vantage point of history. At the same time that the videos expose a problem with policing, they reveal a deeper issue about why the reports and the testimony of people of color have not been believed by the media, political leaders, or the courts. In answering this question, we will find a solution that creates accountability in policing and that will genuinely address the rift in trust between police and the communities they are sworn to protect and serve.

#### The modern criminal justice system follows its colonialist and racist roots

Kennedy 16 [Kennedy, Liam. “’Today they kill with the chair instead of the tree’: forgetting and remembering slavery at a plantation prison.” Sage Journal of Criminology and Pedagogy. (2016). // WWJL]

Examining if and how the USA’s history of slavery and racial inequality is acknowledged and represented in the nation’s penal tourism industry is important given claims of a “post-racial” or “color-blind” USA (see Murakawa and Beckett, 2010). As Winant (2015) argues, these proclamations of colorblindness obscure the continued existence of racial inequality and violence. Thus, today we find ourselves in an era of “color-blind racism”, where race is presumably no longer a consideration anywhere, particularly in criminal justice policy and practice, but where black Americans remain disproportionately surveilled, policed, prosecuted, and imprisoned, and where skin color justifies this discriminatory treatment (Alexander, 2010; Brewer and Heitzeg, 2008: 633). Mass incarceration plays a key role in the reproduction of racial inequality in the USA, enabling the continued control, marginalization, and discrimination of black Americans (see, for example, Alexander, 2010; Brewer and Heitzeg, 2008; Frampton et al., 2008; Wacquant, 2000, 2001; Weatherspoon, 2007). It [the criminal justice system] is a, and perhaps the primary, “race-making” institution in the USA, helping distinguish “us” from “them” (see, for example, Alexander, 2010; Frampton et al., 2008; Goodman, 2008; Wacquant, 2001, 2002). Investigating how Angola’s plantation history is acknowledged and represented by prison officials takes seriously the various, oftentimes subtle, ways that racism continues to operate in the criminal justice system (see Murakawa and Beckett, 2010; Ward, 2015). In fact, in examining the penal tourism industry this project encourages us to broaden our ideas about the different forms that state “race crime” take (Ward, 2015).

In an extensive study, Eichstedt and Small (2002) examine the rhetorics used at 122 plantation museums in Virginia, Louisiana, and Georgia. They find that plantation tourist sites, on the whole, present the antebellum South as “genteel, honorable, and romantic” (Eichstedt and Small, 2002: 258). While a small number incorporated discussions of slavery in their tours or presented information about slavery at separate displays or tours, the majority either ignored or minimized it [slavery] in a practice the authors refer to as “symbolic annihilation” (Eichstedt and Small, 2002: 10). Eichstedt and Small (2002: 258) also toured 20 sites designed to challenge the dominant narrative and tell the stories of African-Americans, but conclude that the approach taken by “mainstream” plantation museums exposes and reproduces a system of discrimination and subjugation based on race. These findings reveal the propensity for ignoring or forgetting a portion of US history that is upsetting and objectionable, in what some scholars have called “social/collective amnesia” (Timothy and Boyd, 2006: 3). For those interested in how the USA penal tourism industry deals with slavery, Angola is the logical choice for a case study. For one, the Deep South, as Angolite staffer Douglas Dennis (1996d: 30) writes, “has always set the tone, practice and legal framework of sanctioned racial injustice in America”. Moreover, the land on which the Louisiana State Penitentiary now sits was at one point in time a group of plantations, home to slaves “who cut sugar cane and picked cotton for the master” (Nelson, 1995: 20, 2001). At contemporary Angola some prisoners—the vast majority of whom are black—continue to “work five eight-hour days a week in the fields, much of that time tending crops or scraping sides of ditches with hoes or mowing down Johnson grass with swing blades” (Nelson, 1998: 20). In other words, there are clear parallels between the past (slavery) and the present (racialized prisoners participating in forced labor). In what follows, I explore how actors at Angola navigate its history, including whether and how slavery is remembered or commemorated by administrators as well as prisoners, and if memories of slavery shape prisoners’ understandings of their incarceration today.

After the abolition of slavery, convicts worked the land under the supervision of Confederate Major Samuel James, who leased all of Louisiana’s prisoners from 1869 to 1901 3 (Dennis, 1997a). The Angola Story notes that James purchased the Angola plantation in 1880 and relocated some convicts there, housing them in the Tenant Farmer Quarters, which would later become Camp A (Louisiana State Penitentiary Museum Foundation, 2011). The prison in modern times, writes Angolite contributor Burk Foster (1993: 47), “survives as a lasting memorial” to both Major James and his accomplishments. The welfare of the “prisoner-slaves”—who worked on farms and plantations, cut timber, performed household servant duties, and helped construct railroads and Mississippi River levees—was disregarded throughout James’ rule (Foster, 1993; The Angolite, 1982c: 61). The focus was on turning a profit, and this meant that life was “harsh and often deadly” for these convicts (Butler, 1991: 70). Louisiana purchased the land and put an end to the convict lease system at the beginning of the 20th century (Nelson, 1998, 1999). Angola became a state penitentiary (or penal farm or plantation prison). Yet, prisoners continued to work long, hard hours in the fields under the threat of physical violence (Nelson, 1995, 1998, 1999). In other words, this was a change “in name only” as James’ strategy informed the approach to corrections in Louisiana for decades after the end of the lease—predominantly black prisoners were still “crowded into large wooden buildings and work[ed] from sunup to sundown in sugar cane and cotton fields—rain or shine, 12–14 hours a day, seven days a week” (Foster, 1993; Nelson, 1995: 20). Profit, and not rehabilitation or reformation, remained the primary concern (Foster, 1993). Management controlled prisoners and maintained order through the use of beatings and floggings (Nelson, 1995; The Angolite, 1985). For the first half of the 20th century “Angola remained a hellhole of dilapidated quarters, inedible food, political patronage, overwork, corruption, racism and brutality” (Dennis, 2001: 34). It was these conditions that motivated prisoners to cut their heelstrings in the early 1950s, an act that drew attention to their plight (Wikberg, 1991). While reforms followed, they only lasted until 1962, when concerns about the budget and politics negated any progress (Wikberg, 1991). Conditions deteriorated and by the early 1970s “Angola was a full-blown monster” with “violence […] woven into the very fabric of the prison’s daily life” (Foster, 1988: 23; The Angolite, 1984: 15; Wikberg, 1991). A federal court order and a new warden helped bring about real, lasting change in the mid-1970s: additional staff was hired, overcrowding was reduced, the practice of racial segregation ended, and violence subsided (Glover, 1991; Mason, 1987; The Angolite, 1984). The federal court decision is a pivotal moment in Angola’s history, believed to have finally brought “the prison out of its ‘dark ages’” (Foster, 1988: 23) and credited with having inspired a “massive clean-up effort” (The Angolite, 1982b: 43) that “resulted in the institution’s progress and change” (Mason, 1987: 28).

## 2NR Frontlines

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