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The Colorline as Capitalist Accumulation

ANTHONY PAUL FARLEY†

1. The Commons:

We are all flesh and all flesh is common until it is marked. The marking of flesh is accomplished by violence. Some are to have and others are to have not. Those who want to possess must mark the others for dispossession. The haves must come together as one, as Leviathan, because no *one* can rule another alone. The *one* must sleep sometime, and the sleep of the master is the emancipation of the slave. Leviathan, the state, with its many eyes and rules, murders sleep. Law begins as the masters come together as one, as Leviathan. The masters come together as one through the mark.

2. The Skin Ego:

Before the mark of dispossession, all we have is the skin that holds us. Before the mark, the skin we are in holds all of us in common and all is common. The mark must therefore be made or found ready-made on the skin. The mark, written or found already-written on the skin, separates those who are to have from those who are to have not. The mark splits the first commons. The first commons is the skin that we are all in. Before the mark, we are. After the mark, we are white-over-black.

† James Campbell Matthews Distinguished Professor of Jurisprudence at Albany Law School. I had the opportunity to present this series of thoughts at the ClassCrits Conference at the University at Buffalo Law School last year. All of my intellectual debts are obvious and therefore I have not added footnotes to my series of twenty-one notes. Many thanks to the ClassCrits participants, especially organizers Athena Mutua and Martha McCluskey. And, as always, love to Astrid and Maria Grahn-Farley.

3. Ownership:

Ownership of things is first and last and always ownership of people. The would-be owners must mark those whom they would own for dispossession. The mark, white-over-black, is made on the flesh. The mark is made with violence. The mark is a fatal wound. White-over-black is slavery and slavery is death, death only, and that continually.

4. Monopoly:

The monopolization of things needed to live—fields, factories, forests and so on—is instituted by the violence of the mark. The mark shows who is to own and who is to be owned. The mark is the first and last and enduring moment in the history of ownership because ownership of things is first and last and always ownership of people. The flesh is marked and the would-be owners direct the violence of dispossession against those marked for violent dispossession (Middle Passage, Manifest Destiny, Infinite Justice and so on). What was common to all flesh—fields, factories, forests and so on—is violently enclosed within the horizon of the mark. The owner's ownership of a field or a factory or a forest is treated as a right over non-owners. Ownership means ownership by some and not by all. And ownership means that the entire world must come to be owned, otherwise there would an exodus of the dispossessed from the spaces of their dispossession. Those who own are owners. Those who do not own are themselves owned. The non-owners are owned, like things, by the owners. The owners' will governs the owner's objects—fields, factories, forests and so on—and the owned must surrender themselves to the class or collective will of the owners or die. This surrender or abdication of will is impossible for the living, for living is nothing other than the choices by which we make ourselves. The dispossessed, then, are presented with a choice that is not a *life* choice: *Surrender to the will of the owner and die or surrender to the elements and die*. The dispossessed, marked as not-owning the fields, factories, forests or any of the other things needed to keep the furies and fates, like hunger and exposure, at bay, are destroyed. The destruction, however, is not all at once, it is endless. And the *endlessness* of this destruction requires that they, the dispossessed, are first made mad.

5. Trauma:

It is within the madness occasioned by the trauma of the mark that the meeting of minds takes place and the Social Contract is signed. The Social Contract, usually discussed as a perfect and eternal form, as offer-acceptance-consideration, can be more closely examined if we take it to be a composite of all the fatal injuries occasioned by the mark. The dispossessed is injured by the violence that encloses the commons—fields, factories, forests—and declares them the property of the owner. The dispossessed is injured by the lack of these things. The injury is fatal. The violence of the mark drives the people out of the fields and out of the forests and out of the factories that were held in common and then back into the fields and the factories and the forests that violence has declared to be the property of the owners. The dispossessed, those with nothing other than the skin that they are in, imagine, within their madness, the madness occasioned by the mark, that they meet the owners as equals in the market. The market becomes the world. The market is the unifying illusion projected upon the shattered commons. In the market, which is the world as it appears to us after the mark, it seems as if there are only buyers and sellers and all are equal and free and subject to only such universal rules as allow each individual the maximum freedom that is consistent with the provision of that same maximum freedom to all. The market is the rationality of the madness occasioned by the mark. The struggle for law is the struggle to realize that seemingly perfect rationality in this world.

6. Fixation:

The insanity of the dispossessed is their dedication to, their fixation on, the struggle for law. The inaugural dispossession is occasioned by the violence of the mark. The inaugural dispossession is the source of the original capital that sets capitalism in motion. Capitalism requires a market. The market must become the entire world. And the world of that market must seem to be governed by rules in order to appear and to appeal as a sort of peace. Hence, the struggle for law. Each of these requirements—the market, its infinite expansion, its law—and the role of the

dispossessed in fulfilling these requirements, will be examined in turn.

7. The Alchemy of the Market:

An owner purchases fixed capital and variable capital and sets in motion the alchemy the result of which is the production of commodities. The owner, "the capitalist," is said to have "produced" these commodities. The owner has produced these commodities not for their use value but rather for their exchange value, a peculiar value that can be realized only if there is a market for their exchange or sale. If all goes as planned by the owner, then the required fixed and variable capital will be available on the market and the commodities produced will be sold on the market and the value received for the commodities produced will be in excess of the value expended in their production. Failure is possible for the individual capitalist because there are competitors in the market. Failure, repeated often enough, results in the precipitation of the *failed*, and therefore *former*, capitalist down to the black planet of the dispossessed. Individual capitalists fail and fall and then cease to be capitalists. Individual capitalist failures and successes are the expected result of market freedom and competition. The individual capitalist is merely an avatar of capitalism, not capitalism itself. Capitalism itself is kept aloft by the capitalists as a class, and not by any particular capitalist or set of capitalists. Only the failure of the owners *as a class* can bring about the *classless society*. Failure of the owners as a class would mean that the dispossession occasioned by the mark—the original accumulation—has been undone. Failure or success of the individual capitalist is the way that capital is said to move from less to more productive (of capital) enterprises. An invisible hand—*Is it the hand of God?*—is said to make certain that capital moves in ways that make the market the best of all possible worlds.

8. Borders:

The market must become the entire world or capitalism falls apart. If there is an escape from the market, that is to say, if there is a remainder of the commons, then those with only their skins to alienate will remove themselves from the market to the commons. If escape is possible, then the offer

made by the capitalists to the dispossessed will be refused and the dispossession that is the soulless soul of the system of capital will be undone.

9. Contract:

The offer made by the capitalist is the offer of employment or death. The commons were divided into properties of the owners in the initial dispossession. The dispossessed own only the skins they are in and all else belongs to the inheritors of the initial dispossession. The owners make an offer, "Work for us." Or, rather, "Work for me." In "exchange" for a certain amount of labor in accordance with certain directions and at certain level of intensity and under certain conditions, the owner promises to *give* the laborer a certain sum of money. The sum *given* to the laborer must represent a value that is smaller than that realized by the owner as a result of the laborer's labor in order for the system of capital to work. Individual owners may fail, but capitalism remains unless the owners fail as a class. The owners, as a class, succeed so long as they collectively manage to obtain free labor (surplus value), and this they cannot obtain from free laborers.

10. Surplus Value:

What is surplus value? Surplus value is the free work that the dispossessed perform for their masters. The dispossessed work for free because they are not free. The dispossessed are not free to do anything other than work for free or die. Slavery-or-death is not a choice, each is the other but the dispossessed repress that fact. In non-revolutionary situations, that is, in law-governed situations, this repression is such that the dispossessed experience their dispossession as freedom and their social death as life. In psychoanalytic terms, the dispossessed repress and then screen their repressed experience of dispossession with a feeling of freedom. The dispossessed experience themselves as *free to choose* to accept the offers of this-that-or-the-other representative of the owners of the means of production. They seem free to choose but they are not free to choose because they are not free to refuse. Capital's legion of representatives produce, by their numbers, an illusion of choice, and this illusory choice seems like freedom to those

who know of nothing to which it might be compared. One seems free to work for owner-X or owner-Y or owner-Z. The contract between the owners and their slaves is always the same. The slaves must work for free for their masters. Wages, hours and conditions may vary between X or Y or Z but the fact of surplus value's extraction is not and cannot be forgotten by any individual capitalist who cares to remain a capitalist for long. The master's mastery is only the master's ability to dispossess his slaves of the hours and days of their lives. The slave works for the master and some part of the value of the slave's labor beyond that needed to pay for the materials of production and labor is retained by the master. Without that retention of surplus value, the master eventually falls out of the capitalist class. Without the extraction of unpaid labor, there are no owners.

11. Consent:

None of the dispossessed would agree to such an exchange without first believing escape to be impossible. Escape seems a physical impossibility if the market is the entire world. Escape seems a logical impossibility if there is no alternative. Escape seems unethical and antisocial if this is the best of all possible worlds. Thus, the entirety of the law and the prophets for the owners is reducible to one sentence; "Resistance is futile." Slaves educated by the masters' gospel look for happiness in slavery. Where there is oppression, there is resistance. The resistance of the slave is of the futile sort, as will be demonstrated.

12. Capital Logic:

The slaves flee into madness; the chains tighten with each sortie. The slaves' madness is the rationality of the system that keeps them enslaved. The slaves seek to escape their slavery through better hours, wages and working conditions. The slaves seek to escape their slavery through housing, education and welfare. The slaves seek to escape their slavery through bread and roses. Their masters provide them with neither bread nor roses, at least not without a struggle. Indeed, the sharing of life's glories after the mark can only come about through class struggle. And yet it is to their masters that the slaves, in their madness, direct prayers for relief. The slaves in their madness seek to

soften the blows of outrageous fortune that are the fruits of their dispossession by appealing to their masters. The slaves do this through their appeal to the rule of law. And this keeps them within the time of the original accumulation, within the primal scene of accumulation. The rule of law is madness maddened. The slave's appeal creates the law, the special monopoly of violence that keeps slaves chained to their masters and penned within the original dispossession. Before the slave bows down in prayer for legal relief, there is no law. Before the slave bows down in prayer before the law, there is only dispossession in its corporeal violence. Afterwards there is the false paradise of rights.

13. Emancipation:

Slavery begins only after emancipation. After emancipation, the slave is free to choose slavery, thus perfecting its abjection. The slave chooses slavery when it willingly bows down in prayer before the law. The slaves' prayers create the state. The state is the trauma-born nightmare that escapes the slave's mind and then stands over it as master. The state, its rules and rulings, becomes real only when the slave swears its fidelity, and this it does in the expression of belief that is the prayer for legal relief.

14. Offer:

The slave offers its pain, the pain of the mark, as a prayer for legal relief. The slave authors a rule—legislative, administrative, judicial—regarding due process or equal protection or something that will enable movement toward the situation enjoyed by the master, the far point of the slaves' ambitions. The rule is a picture of a possible future state of things that has got hold of the slave and led that slave to the altar of its self-sacrifice. The picture is of a state of equality between the slave and its master. The picture is a kind of portrait of Dorian Grey. Like the painting in Oscar Wilde's novel, the rule of equality keeps all things new and innocent, but not really. The past always returns to haunt the present and when it returns it does so using as its vehicle the very instruments that were supposed to have exorcised it forever. When the horrors of the past return to us, like nameless bodies after a flood, they are uncanny. We know what happened and yet we are

surprised at the failure of our attempt to repress that same memory, and we are afraid because the present is made bearable, or so it seems, only by our repression of its genealogy.

15. Acceptance:

The slave creates a portrait of tomorrow's equality and then gives it to its master. The rule, like the portrait, may be assessed, enjoyed and appreciated in many ways, in infinite ways. No rule determines the circumstances of its own application. Neither do rules for the interpretation of rules determines the circumstances of its own application. And so on. In situations in which dispossession according to a mark has been successful, the marked and those who mark them, are themselves products of the situation. Every situation calls for and is a form of training. We are trained according to the mark. This training, when successful, gives us the orientation that we need in order to navigate our situations. We can be trained because we experience pleasure and desire and possess the faculty of imagination. The mark institutes a pleasure and a desire, white-over-black. White-over-black is an orientation of bodies to bodies and therefore erotic. Trained by our situations in this desire for white-over-black, we orient ourselves accordingly as we navigate our situations. We move toward white-over-black, it is the Polestar of our ambitions and dreams. We have the capacity to imagine the infinite extension of the pleasure we follow, and thus we extend white-over-black throughout all of space and time. Indeed, white-over-black becomes all of space and time. And so it is that masters follow their desire for white-over-black as they interpret rules and rules for the interpretation of rules and rules for the interpretation of rules for the interpretation of rules and so on. Because rules are neither self-interpreting nor self-implementing they must be given direction. After the slaves give these rules, their portraits of future equality, to their masters, their masters see them, the legal commodities produced by the slaves, as if they pointed in the direction of white-over-black. And finally and every time and in accordance with their training, the masters quickly see white-over-black as equality.

16. Time:

The colorline marks the space of white-over-black. It has seemed to us that there is no physical escape, no land of Canaan, because the colorline belts the world and because the market has become the world and because the market is always and only a slave market and because that means that this entire flat earth is an auction block. Indeed, in the case of white-over-black, the map has indeed become the territory. But the map is wrinkled in time, and that is what we have failed to understand. In fact, the map is endlessly wrinkled in time. The map is a portrait of the original accumulation. Every movement across its territories is a movement toward the original accumulation. The original accumulation is the primal scene of white-over-black. There is no time outside of the original accumulation. We live within the horizon of the original accumulation and that is why our time is always already their time.

17. The Gift:

When the slave prays for legal relief, it authorizes its master to rule over its future. The slave gives the portrait it has painted of tomorrow's equality to its master today. The slave is consciously aware of its desire for equality as it paints. The future appears to us, if it appears at all, as through a glass, darkly. What the slave has painted is the past, the past into which it flees, the past that contains slavery, slavery only, and that continually. The slave *gives* the portrait to its master. The master is colorblind and sees in the slave's artistic production white-over-black, white-over-black only, and that continually. That is why the master's interpretation of the rule for equality is white-over-black, white-over-black only, and that continually. The slave paints with knowing non-knowledge of what it is doing and every ruling, every legislative, administrative, judicial victory brings the slave back to the past that it has in fact painted all the while dreaming that it was in fact painting the future.

18. The Crisis:

The gift is accepted only during moments of crisis. There are many crises. The owners, desperate in their need

for surplus value, capture and consume the entirety of space. The owners include each other in their accumulations. Groups of owners, groups of groups, combine and throw the dispossessed at each other as they wage their endless wars of accumulation. The dispossessed have no country, but they are trained to feel as if they do and thus trained they often willingly go to fight each other in order to increase their master's mastery. Few recall the Wobblies' peace plan, *Our bullets are reserved for our own generals*, and so there are always wars and rumors of war. Owners must accumulate surplus value or they perish as owners. The owners, then, are always desperate and happy to leave the human condition behind in their quest for the eternity of capitalist accumulation. Crises are the fruit of this desperate push beyond the limits of reproduction. Beyond the limit, things fall apart. Limits can be exceeded in many ways and the desperate owners always find new ways of breaking their own system.

19. New Accumulations:

One type of crisis occurs when the owners go beyond that which they have trained their slaves to think of as 'fair' in terms of wages, hours and conditions. Another type occurs when the owners go beyond that which they have trained their slaves to think of as 'fair' in terms of housing, education and welfare. Sometimes, as with the flooding of New Orleans, the totality of oppression is unveiled. Masters, having successfully confined their slaves' ambition for bread and roses *within* the horizon of the juridical sometimes, in capitalist desperation, get out ahead of their slaves. In such moments the system of white-over-black experiences a crisis *because the slaves see the owners for what the owners are and they also see themselves and what it is they have been doing to themselves*. The slave is then welcomed into the master's house for negotiations. *Negotiation* requires the slave to pretend that it has something in common with its master. Slaves and masters have nothing in common and there is therefore nothing to negotiate. Negotiation is always already at its beginning the almost-escaped slave's surrender to its almost-former master. There are many mansions in the master's house, each filled with the beauty of yesteryear's dreams of legal emancipation. These legal dreams of equality are the endless

prayers offered up by the slaves during the endless crises of capital. These surrenders are the secret of capital time.

20. Dreamtime:

The slaves have knowing non-knowledge of their own breaking point, the point at which their refusal becomes a Great Refusal and their strike becomes a General Strike and the time becomes a new time, their time, our time, the Commune. The slave knows what will keep it unconscious of its situation and its inalienable freedom. The slave knows and yet does not know. Law is its way of not knowing. The Commune is goodbye to all that.

21. Worldtime:

We live inside the accumulations. We are lived by the accumulations. We are lived by the accumulations until and unless we seize the time. The General Strike of the slave power defeated the Union and the Confederacy. The slaves streamed away from their plantations and seized the time. Time and tide wait for no one. The stream became a flood and the entire Confederacy might have drowned but for the capture of all that wide water within the Thirteenth and Fourteenth and Fifteenth Amendments to the Constitution of the United States. Reconstruction swiftly became Redemption, the Confederacy joined the Union, and the self-emancipated proletariat became, once again, slaves, this time for wages, to the whites.

