# Marks R2 – 1NC v Westwood DL

## 1

#### The only ethical demand available to modern politics is that of the Slave, the demand for the end of the world itself. The grammar of the 1AC is inadequate and parasitic on Blackness as a sentient object and distances itself from the articulation of the gratuitous violence that positions blackness as the anti-human and the structural antagonism that undergirds political life.

**Wilderson 10** (Frank B. Wilderson III is American writer, dramatist, filmmaker and critic. He is a full professor of Drama and African American studies at the University of California, Irvine. He received his BA in government and philosophy from Dartmouth College, his MA in fine arts from Columbia University and his PhD in Rhetoric and Film Studies from the University of California, Berkeley), *Red, White, & Black: Cinema and the Structure of U.S. Antagonisms*, Duke University Press, Pg. 74-78. KD

In the Introduction and the preceding chapter, we have seen how the aporia between Black *being* and political ontology has existed since Arab and European enslavement of Africans, and how the need to craft an ensemble of questions through which to arrive at an unflinching paradigmatic analysis of political ontology is repeatedly thwarted in its attempts to find a language that can express the violence of *slave-making*, a violence that is both structural and performative. Humanist discourse, the discourse whose epistemological machinations provide our conceptual frameworks for thinking political ontology, is diverse and contrary. But for all its diversity and contrariness it is sutured by an **implicit rhetorical consensus that violence accrues to the Human body as a result of transgressions, whether real or imagined, within the Symbolic Order**. That is to say, **Humanist discourse** can only think a subject’s relation to violence as a contingency and not as a matrix that positions the subject. Put another way, Humanism has no theory of the slave because it imagines a subject who has been either alienated in language (Lacan) and/or alienated from his/her cartographic and temporal capacities (Marx). It **cannot imagine an object who has been positioned by gratuitous violence and who has no cartographic and temporal capacities to lose**—a sentient being for whom recognition and incorporation is impossible. In short, political ontology, as imagined through Humanism, can only produce discourse that has as its foundation alienation and exploitation as a grammar of suffering, when what is needed (for the Black, who is always already a slave) is an ensemble of ontological questions that has as its foundation accumulation and fungibility as a grammar of suffering (Hartman). The violence of the Middle Passage and the slave estate (Spillers), technologies of accumulation and fungibility, recompose and reenact their horrors upon each succeeding generation of Blacks. This violence is both gratuitous, that is, it is not contingent upon transgressions against the hegemony of civil society; and structural, in that it positions Blacks ontologically outside of humanity and civil society. Simultaneously, it renders the ontological status of humanity (life itself) wholly dependent on civil society’s repetition compulsion: the frenzied and fragmented machinations through which civil society reenacts gratuitous violence upon the Black—that civil society might know itself as the domain of humans— generation after generation. Again, we need a new language of abstraction to explain this horror. The explanatory power of Humanist discourse is bankrupt in the face of the Black. It is inadequate and inessential to, as well as parasitic on, the ensemble of questions which the dead but sentient *thing*, the Black, struggles to articulate in a world of living subjects. My work on film, cultural theory, and political ontology marks my attempt to contribute to this often fragmented and constantly assaulted quest to forge a language of abstraction with explanatory powers emphatic enough to embrace the Black, an accumulated and fungible object, in a human world of exploited and alienated subjects. The imposition of Humanism’s assumptive logic has encumbered Black film studies to the extent that it is underwritten by the assumptive logic of White or non-Black film studies. This is a problem of Cultural Studies writ large. In this chapter, I want to offer a brief illustration of how we might attempt to break the theoretical impasse between, on the one hand, the assumptive logic of Cultural Studies and, on the other hand, the theoretical aphasia to which Cultural Studies is reduced when it encounters the (non)ontological status of the Black. I will do so not by launching a frontal attack against White film theory, in particular, or even Cultural Studies broadly speaking, but by interrogating Jacques Lacan— because Lacanian psychoanalysis is one of the twin pillars that shoulders film theory and Cultural Studies.i My problem with Cultural Studies is that when it theorizes the interface between Blacks and Humans it is hobbled in its attempts to (a) expose power relationships and (b) examine how relations of power influence and shape cultural practice. Cultural Studies insists upon a *grammar of suffering* which assumes that we are all positioned essentially by way of the Symbolic Order, what Lacan calls the wall of language—and as such our potential for stasis or change (our capacity for being oppressed or free) **is overdetermined by our “universal” ability or inability to seize and wield discursive weapons.** This idea corrupts the explanatory power of most socially engaged films and even the most radical line of political action because it produces a cinema and a politics that cannot account for the grammar of suffering of the Black—the Slave. To put it bluntly, the *imaginative labor* (Jared Sexton 2003) of cinema, political action, and Cultural Studies are all afflicted with the same theoretical aphasia. They are speechless in the face of gratuitous violence. This theoretical aphasia is symptomatic of a debilitated ensemble of questions regarding political ontology. At its heart are two registers of imaginative labor. The first register is that of description, the rhetorical labor aimed at explaining the way relations of power are named, categorized, and explored. The second register can be characterized as prescription, the rhetorical labor predicated on the notion that everyone can be emancipated through some form of discursive, or symbolic, intervention. But emancipation through some form of discursive or symbolic intervention is wanting in the face of a subject position that is not a subject position—what Marx calls “a speaking implement” or what Ronald Judy calls “an interdiction against subjectivity.” In other words, the Black has *sentient* capacity but no *relational* capacity. As an accumulated and fungible object, rather than an exploited and alienated subject, the Black is openly vulnerable to the whims of the world; and so is his/her cultural “production.” What does it mean— what are the stakes—when the world can whimsically transpose one’s cultural gestures, the stuff of symbolic intervention, onto another worldly good, a commodity of style? Fanon echoes this question when he writes, “I came into the world imbued with the will to find a meaning in things, my spirit filled with the desire to attain to the source of the world, and then I found that I was an object in the midst of other objects” (*BSWM* 109). Fanon clarifies this assertion and alerts us to the stakes which the optimistic assumptions of Film Studies and Cultural Studies, the counter-hegemonic promise of alternative cinema, and the emancipatory project of coalition politics cannot account for, when he writes: “Ontology— once it is finally admitted as leaving existence by the wayside—does not permit us to understand the being of the black...” (110). This presents a challenge to film production and to film studies given their cultivation and elaboration by the imaginative labor of Cultural Studies, underwritten by the assumptive logic of Humanism; because if everyone does *not* possess the DNA of culture, that is, (a) time and space transformative capacity, (b) a relational status with other Humans through which one’s time and space transformative capacity is recognized and incorporated, and (c) a relation to violence that is contingent and not gratuitous, then how do we theorize a sentient being who is positioned not by the DNA culture but by the structure of gratuitous violence? How do we think outside of the conceptual framework of subalternity—that is, outside of the explanatory power of Cultural Studies—and think beyond the pale of emancipatory agency by way of symbolic intervention? I am calling for a different conceptual framework, predicated not on the subject- effect of cultural performance but on the structure of political ontology; one that allows us to substitute *a politics of culture for a culture of politics.* The value in this rests not simply in the way it would help us re-think cinema and performance, but in the way it can help us theorize what is at present only intuitive and anecdotal: the unbridgeable gap between Black being and Human life. To put a finer point on it, such a framework might enhance the explanatory power of theory, art, and politics by destroying and perhaps restructuring, the ethical range of our current ensemble of questions. This has profound implications for non-Black film studies, Black film studies, and African American Studies writ large because they are currently entangled in a multicultural paradigm that takes an interest in an insufficiently critical comparative analysis—that is, a comparative analysis which is in pursuit of a coalition politics (if not in practice then at least as an theorizing metaphor) which, by its very nature, crowds out and forecloses the Slave’s grammar of suffering.

#### Anti-black and colonial structures overdetermine international conceptions of care, allowing people to conflate care with violence, causing the 1AC’s inability to think of Blackness as anything ‘otherwise’ than dependent on colonial powers for care in the wake – Sierra Leone during the Ebola epidemic proves

Hirsch 19 (Lioba Assaba Hirsch, I am a qualitative and archival researcher with an interest in the colonial and antiblack entanglements of Western biomedicine and global health management. My research has focused on the historical development, contemporary management and colonial aftermath of British health interventions in West Africa. My PhD thesis analysed the British-led international Ebola response in Sierra Leone in the wake of British colonialism and the transatlantic slave trade. I have a BA in Political Sciences from Sciences Po Paris and an MSc in Political Sociology from the London School of Economics and Political Sciences (LSE). After completing my MSc I joined the field of international development by working for GIZ, the German government's international development agency in Zambia (2014-15) on a project seeking to strengthen Zambian civil society organisations. Between late 2015 and 2019 I worked towards a PhD at UCL's Department of Geography and Institute for Global Health. I joined the Centre for History in Public Health in November 2019.), “Antiblackness and global health: placing the 2014 - 15 Ebola response in the colonial wake”, University College London, Department of Geography Institute for Global Health, September 2019, pg. 219-223, <https://discovery.ucl.ac.uk/id/eprint/10089879/1/Lioba%20Hirsch%20PhD%20thesis.pdf> NT

8.2.2 Thinking the response otherwise Building on from the previous section I further explore care and turn to what Sharpe (2016) calls ‘the inability to think Blackness otherwise’. I show how care can be analysed as being linked to the inability to think the Ebola response otherwise. In order to show this, I analyse two instances during my fieldwork in which people involved in the response analysed and reacted to being challenged on the neo-colonial implications of the response. I suggest that the inability or unwillingness to think the response and medical care that was provided outside of the normalised reality of colonialism and the structures of (post-)colonial dependency between Sierra Leone and the UK, illustrates the epistemic hold of the wake on thinking care and thinking the Ebola response. At the same time this inability/unwillingness further shows how colonial conflations of care and colonial/antiblack violence were epigrammatic in conversations about the response. **Care here becomes an expression of continued dependency that extends, rather than counteracts the colonial present.** 219 Sharpe writes about teaching a course on memory and trauma. She describes structuring her course around the trans-Atlantic slave trade and the Holocaust and narrates how her students reserved their empathy and care for discussions on the Holocaust, rather than the trans-Atlantic slave trade and enslavement. She (2016, p.11) analyses their reactions as follows: [...] students would say things about the formerly enslaved like, “Well, they were given food and clothing; there was a kind of care there. And what would the enslaved have done otherwise?” The “otherwise” here means: What lives would Black people have had outside of slavery? How would they have survived independent of those who enslaved them? Sharpe’s description of students’ lack of care and her subsequent analysis of this reaction is important on several levels. It reaffirms that in her work care has multiple meanings and that it can be violence. But she also introduces a discussion on her students’ capacity to imagine Black life outside of enslavement and colonialism. As Sharpe (2016) states, her students’ **‘inability to think blackness otherwise’ is a fundamental characteristic of being in the wake**. Some responders displayed a similar inability or unwillingness to think the response and African-ness ‘otherwise’. As I have shown in the previous chapter, antiblackness and the relevance of the colonial past to the development of the West African Ebola epidemic and subsequent international response was largely epigrammatic in the discussions I observed or had with experts and responders to the Ebola epidemic in Sierra Leone. Rather postcolonial dependencies were taken for granted, left unquestioned and used to reinforce ideas of British care for Sierra Leoneans. In order to illustrate how this inability to think otherwise manifested in my research, I return to the expert panel discussion on the Ebola response that I analysed in 7.2.1. I focus here on just one of the statements made during this discussion, which was, as I described, hosted at the Royal Society in London. Towards the end of the discussion in which a panel of global health experts reacted to a question posed on the neo-colonial nature of the Ebola response, I presented the words of a senior fellow, who was not part of the panel, but joined the discussion from the side of the room. In the previous chapter I focused largely on his remarks on Liberia-US relations and his assertion that they could not be qualified as neo-colonialism. I take my analysis up where I left off and focus in the following analysis on his statement on godparents. [senior fellow]: Look the Americans at the beginning of September said “We really want to help Liberia”, which was never an American colony, so you can’t describe that as neo-colonialism. And president Obama 220 contacted President Johnson- Sirleaf and said “What do you want?” She said what she wanted, the Americans responded. They said to us “We have to work inside a multilateral envelope, we created the biggest health mission we’ve ever done, we’ve never done one before”. The British came along very quickly afterwards, particularly Philip Hammond and together with the Prime Minister said, “We have to help Sierra Leone”. The French came in after that with Guinea. Again very strong. Thank Goodness! Supposing this had been in countries that did not have godparents like these, who just take these amazing decisions... (LSHTM, 2017) (emphasis added). The statement “Supposing this had been in countries that did not have godparents like these, who just take these amazing decisions...” exemplifies, I argue, what Sharpe (2016) calls an ‘inability to think blackness otherwise’. The speaker does not detail what the response would have looked like in countries that do not have ‘godparents’ as do Liberia, Guinea and Sierra Leone, nor does he go into detail on the nature of the godparents he refers to. His “supposing” is open ended and it is this open-endedness that signals most of all his inability or unwillingness to think the Ebola response otherwise. This inability to think the response otherwise is reminiscent of Sharpe’s description of her students’ inability to think blackness otherwise. Here I take “what would the enslaved have done otherwise?” (Sharpe, 2016, p.11) and “supposing this had been countries that did not have godparents like these” (LSHTM, 2017) to illustrate how our thinking and imagination is framed by being in the wake. The underlying question asked by the senior fellow, reminiscent of Sharpe’s students, is: **how would Sierra Leoneans, Guineans and Liberians have survived independent of those who colonised them? The violence of the colonial past is in this reasoning obscured to make way for an interpretation of colonialism as care and colonialism as blessing.** At the same time, the fellow’s choice of words is an (unanswered) invitation to imagine a non-colonised Africa. “Supposing this had been countries that did not have godparents like these [...]” (LSHTM, 2017) invites us to think of Sierra Leone, Guinea and Liberia without ‘godparents’, that is to say without the experience of colonisation and colonial violence as care. To think the international Ebola response in a non-colonised setting requires care, as does the realisation that our ability to think and theorise postcolonial Africa is constrained by being in the wake. An inability to think the response otherwise was also present in the following account. Anton, whom I have quoted previously and who worked for Organisation X and I had the following exchange when I relayed the senior fellow’s remarks: 221 Anton: [flinches] I think it is really, it is a very difficult one. And so, our understanding of Ebola comes from a bit of colonial history like Peter Piot going out into Congo, even though that wasn't a British colony - Lioba: [interjects] Yeah but he's Belgian. Anton: yeah you know [it] comes from colonial aspects of that. I don't know how these decisions were made in terms of how these countries were gonna get involved there. I mean it's really interesting to see the differences of how that happened really. The US came in and just took over Liberia, they just took over and that's the US way of doing things, but also they have this strange paternalistic relationship with Liberia [...] they kind of care what's going on, but it’s odd. It's a little bit odd. The British relationship with Sierra Leone is something that I get very conflicted about. Now Sierra Leone is one of the few countries in the world that like genuinely loves Tony Blair. [Lioba laughs] No! People call their children Tony Blair, they think he's wonderful because he ended the civil war. It was one of the few scenarios in which British military involvement ended up with something relatively near to good. I don't know if I can say that [looks hesitant], relatively good. So really bizarrely like actually quite made sense for the British government and the British military to get involved and actually there were people who wanted - there were newspaper columns, and I don't know if I could find them but I could try - there were newspaper columns in Sierra Leone calling for Sierra Leone to be recolonised by the British. It got to that kind of level. [...] On the one hand I'm like, oh did it really have to do it [did the UK really have to get involved]? If it's against everything that I believed, that you have these colonial [relations]...on the other hand it's like, where else is it [help] going to come from? In the situation? Anton’s physical reaction when I summarised the moment at the expert panel discussion is telling. He flinched when I recounted the characterisation of British-Sierra Leonean relations. Anton was fully aware of the colonial aspects of the discovery of Ebola and they made him uncomfortable. As the quote shows, he was also aware of the long history of British post-colonial involvement in Sierra Leone. He hesitated when stating that the UK should get involved in Sierra Leone and seemed uncomfortable (“So really bizarrely like actually quite made sense for the British government [...] to get involved”). Anton’s narration finishes, like the quote I asked him to comment on, with the inability to think the response otherwise: “On the other hand it’s like, where else is it [help] going to come from? In the situation?” Anton’s questions are open-ended. His relation to colonialism and the role it played in the development of the international Ebola response is radically different from that of the senior fellow speaking at the expert panel event on the Ebola response. In comparison to him, Anton recognises the colonial implications of the past for the present and recognises the problematic reproduction of dependencies. **Yet his analysis ends with a similar inability to think the response otherwise, to think Sierra 222 Leonean life otherwise in the wake of British colonialism. Here, caring and thinking about care with regards to the Sierra Leonean Ebola epidemic are suggestive of the epistemic constraints of the wake**. In both accounts the meaning of care displays colonial relations of dependency. In the senior fellow’s remarks this dependency is lauded and the colonial past interpreted as the reason for European and North American involvement in the West African epidemic. Anton views this relationship much more critically, but similarly finds himself unable to think the response outside of the constrains of the colonial wake. Again, I argue that **how global health practitioners and analysts think about care and the wake has implications for how they conceptualise epidemic responses.** In this part I have explored the epistemological dimensions of thinking care in the wake. Drawing on Sharpe’s (2016; 2018) writings about thinking and practicing care, I have argued that **the way international responders and experts conceptualised care and understood it in relation to the Sierra Leonean Ebola epidemic was symptomatic of how they related to the reality of the wake.** Though antiblackness and the wake still remained largely epigrammatic, I have started to show that some responders had awareness of the colonial implications of Britain’s intervention in Sierra Leone, a theme that I further explore in the second part of this chapter. The wake manifested, for international responders, in Sierra Leonean communities’ association of institutional care with violence and their subsequent hesitation to seek care in government and international treatment centres. As James suggested during his interview, **rather than seeing communities’ attitudes as a problem, care should take their realities into account.** I argue that Sharpe’s approaches to care offer a useful starting point to think about **broader definitions of care** in epidemic interventions. I have further argued that an unwillingness and/or inability to think the Ebola response otherwise hinged on responders and experts’ un/awareness of the wake and thereby placed the response and analyses thereof firmly in the wake. Here (white) unawareness of continuous antiblackness becomes a feature of the wake. The inescapable nature of the colonial wake is not only due to the historical fact of colonialism, which I have described in previous chapters, but also due to our inability to think the present and the future otherwise.41

#### The medical industrial complex and biomedicine are built on colonialism and the exploitation of black bodies for experimentation

Wallace 20 (Gwendolyn Wallace (she/her) is a senior at Yale University pursuing a BA in the History of Science and Medicine, concentrating in Gender, Reproduction, and the Body. Her research interests include histories of community health activism, reproductive justice, and the intersections between race-making, science, and medicine. Gwendolyn enjoys working with young children, gardening, and searching for used bookstores to explore.), “To Abolish the Medical industrial Complex”, Black Agenda Report, 7-8-20, <https://www.blackagendareport.com/abolish-medical-industrial-complex> NT

“Our systems of medical “care” have been built on carceral logics.” Black health disparities are not an incidental feature of the healthcare system. The coronavirus pandemic has further demonstrated that the medical industrial complex is so deeply deleterious to Black people that reforms like increasing the number of Black doctors or unconscious bias training for healthcare professionals are not enough to ensure Black people’s live. The values of the medical industrial complex run in contradiction to the well-being of all Black people. In her essay The Death Toll , Saidiya Hartman writes, “the health-care system is routinely indifferent to black suffering, doubting the shared sentence of bodies in pain, uncertain if the human is an expansive category or an exclusive one, if indeed a human is perceived at all.” The pledge to “do no harm” has little meaning when Black people are still excluded from the human. **Ultimately, Black “health” is an impossibility in a system built and sustained by anti-black violence and logics.** From its inception, the medical industrial complex has been in service of white supremacy and capitalism. In Frantz Fanon’s essay “Medicine and Colonialism,” he writes, “The colonial situation does not only vitiate the relations between doctor and patient. We have shown that the doctor always appears as a link in the colonialist network, as a spokesman for the occupying power.” **The ruling class continues to claim that biomedicine is simply abused occasionally for evil purposes, which purposefully detracts from addressing that it has always been a child of slavery and European colonialism**. “Black ‘health’ is an impossibility in a system built and sustained by anti-black violence and logics.” It is no coincidence that today, many health studies continue to act as though race is a biological category that exists without racism. Race-making has always been a crucial mission of the medical industrial complex. In his 1851 “Report on the Diseases and Physical Peculiarities of the Negro,” Samuel Cartwright, a prominent physician, writes about a mental illness called drapetomania which compels slaves to run away. Twenty-four years after Cartwright’s report, Oliver Wendell Holmes Sr., dean of Harvard Medical School and an avid eugenicist, wrote an 1875 essay about mechanisms of crime. He writes, “If genius and talent are inherited...why should not deep-rooted moral defects and obliquities show themselves, as well as other qualities, in the descendants of moral monsters?” Theories of genetic inferiority created by physicians were the same that Prudential, one of the largest insurers of Black people at the time, used to justify their announcement in 1881 that insurance policies held by Black adults would be worth only one third those of white people’s. Their weekly premiums, however, would be the same. It should come as no surprise then, that a 2020 paper published in the Journal of Internal Medicine was entitled, “Obesity in African-Americans: is physiology to blame?” before public outcry forced a change in title. Experimentation on Black people has also created the foundation for medical knowledge. People often reference the Tuskegee Syphilis Study, but there are also a plethora of other studies that were conducted on Black people, like the “Acres of Skin” experiments done by dermatologist Albert M. Kligman on incarcerated Black men in Philadelphia from 1951 to 1974. “Race-making has always been a crucial mission of the medical industrial complex.” **White doctors even abused Black people after their deaths**. In her book Medical Apartheid, scholar Harriet Washington explores the histories of medical schools stealing the bodies of Black people for dissection practice into the 20th century, even going do far as to rob Black cemeteries. Of course, medical history is also rife with examples of doctors abusing Black people’s reproductive freedoms. From J Marion Sims’ experimental surgeries on enslaved Black women in 1845, to George Gey’s 1951 theft of Henrietta Lacks cells which still power the medical industrial complex, biomedical encounters have always been a threat to Black women’s health. The Eugenics Board of North Carolina didn’t cease operations until 1977, and of the almost 8,000 people sterilized in the state, about 5,000 were black. While medical and research institutions make sure to target Black people for experimentation and abuse, they also systematically deny Black people healthcare resources. Chicago’s Southside neighborhood lacked an adult trauma center until 2018, despite its high rates of gun violence. This is just a part of a long history of medical facilities being intentionally built far away from predominantly Black neighborhoods. Framing any of the cases above as an exceptional misuse of science is a dangerous way of avoiding the conversation that they are all expected outcomes of a system that was never made to ensure the health of Black people. **Science and medicine have not simply absorbed the racism of other institutions, they are institutional violence themselves.** The state continues to discredit Black peoples’ legacies of healing through granny midwives, root workers, and conjurers because they are a threat to white supremacist capitalist medicine. **Black people have been, and continue to be, the enemies of medicine. In the end, white people are only able to secure their own health when they can place it next to the unwavering illness of black people that they create and re-create.**

#### The concept of intellectual property is rooted in white supremacy and capitalism, with white gatekeepers being the ultimate arbiters of what is original

Sherman 5/10/21 (Zoe Sherman is Assistant Professor of Economics at Merrimack College. Her scholarly writing has appeared in Rethinking Marxism, Forum for Social Economics, and other peer reviewed publications. Her popular writing appears regularly in Dollars & Sense magazine.), Review of “The Color of Creatorship: Intellectual Property, Race, and the Making of Americans” by Anjali Vats, Rethinking Marxism, Vol 33, No. 2, pg. 324-326, <https://doi.org/10.1080/08935696.2021.1893089>, <https://www.tandfonline.com/doi/abs/10.1080/08935696.2021.1893089?journalCode=rrmx20> NT

The term “intellectual property” gathers together a range of disparate legal constructs—copyright, patent, and trademark—with different legislative origins and different bodies of case law. Despite formal distinctions among the three, the umbrella grouping is meaningful as rhetorics about creation, ownership, theft, just rewards, and stolen value flow across the legal boundaries. **These rhetorics are inseparable from racial scripts of white supremacism and colonialism,** as Anjali Vats shows in The Color of Creatorship, her important new contribution to the critical-race intellectual property literature. Vats traces a historical trajectory of U.S. intellectual property legislation and case law through three periods: a period of formal and explicit racial differentiation from the founding of the republic through the middle of the twentieth century; the race-liberal period of formal colorblindness from the mid-twentieth century through the early twenty-first; and the purportedly postracial period of the Obama presidency. Despite the erasure in the latter two periods of explicit legal mandates for white supremacy, Vats demonstrates the persistence of racial hierarchy in the conception and application of intellectual property. She also offers case studies of forms of resistance, always imperfect yet always worthwhile, and concludes the book with a call for decolonizing creatorship. Vats’s analytical methods apply the critical-legal-studies insight that law must be studied as a porous field of activity, embedded in and mutually constituting/constituted by a larger cultural and political context. While law practitioners may pretend to apply formal logical reasoning in a setting insulated from any influences beyond the explicit requirements of the law, we should not be fooled. Vats centers the critical-race-theory practice of investigating the construction of the unequal racial categorization of human beings. U.S. intellectual property law has been entangled with conceptions of citizenship and national identity from the outset, Vats argues, when the Copyright Act of 1790 extended copyright protection to any U.S. author “being a citizen or citizens thereof, or resident within” (30). Citizen was an explicitly raced category; for persons racially excluded from the category of “citizen,” getting copyright protection for their work as a “resident within” **required being acknowledged as a creator by white gatekeepers.** Even if this occasionally happened, as when Phillis Wheatley copyrighted her volume of poetry, creation was understood through European Romantic notions of authorship and “true imagination.” **The capacity for true imagination was assumed by gatekeepers to be exclusively a characteristic of white people.** People of color were assumed only to be capable of mimicry. Wheatley’s copyright was only granted after a trial (and associated commentary in the press, including by Thomas Jefferson) that aired every antiBlack script about the intellectual debilities of African Americans. **The granting or withholding of patents, although governed by different legal statutes than copyright, mobilized the same racial scripts of White ingenuity and hard work contrasted with all other people’s lazy imitations.** Trademarks, meanwhile, allowed racially derogatory symbols and terms to circulate as the revenue-enhancing property of white-owned businesses. In time, the law changed and no longer formally mandated White supremacy; the racial scripts of White worthiness contrasted with Black and Global South unworthiness did not. **The legal standard of “originality” does not have to explicitly name race for the products of White intellect to be judged “original” and for creators of color to be judged “derivative,” or for traditional knowledge held collectively by communities of color to be treated as a raw resource while White individuals’ appropriations are treated as discoveries** (which then often end up as assets of transnational corporations).

**The alternative is an unflinching paradigmatic analysis that poses the question of whether civil society is ethical or not**

**Wilderson 10** (Frank B. III, “Red, White, & Black: Cinema and the Structure of U.S. Antagonisms, pg. ix-x) \*\*we reject author’s use of ableist language

STRANGE AS it might seem, this book project began in South Africa. During the last years of apartheid I worked for revolutionary change in both an underground and above-ground capacity, for the Charterist Movement in general and the ANC in particular. During this period, I began to see how **essential an unflinching paradigmatic analysis is to a movement dedicated to the complete overthrow of an existing order. The neoliberal compromises that the radical elements of the Chartist Movement made with the moderate elements were due, in large part, to our inability or unwillingness to hold the moderates' feet to the fire of a political agenda predicated on an unflinching paradigmatic analysis. Instead, we allowed our energies and points of attention to be displaced by and onto pragmatic considerations. Simply put, we abdicated the power to pose the question—and the power to pose the question is the greatest power of all.** Elsewhere, I have written about this unfortunate turn of events (Incognegro: A Memoir of Exile and Apartheid), so I'll not rehearse the details here. Suffice it to say, this book germinated in the many political and academic discussions and debates that I was fortunate enough to be a part of at a historic moment and in a place where the word revolution was spoken in earnest, free of qualifiers and irony. For their past and ongoing ideas and interventions, I extend solidarity and appreciation to comrades Amanda Alexander, Franco Barchiesi, Teresa Barnes, Patrick Bond, Ashwin Desai, Nigel Gibson, Steven Greenberg, Allan Horowitz, Bushy Kelebonye (deceased), Tefu Kelebonye, Ulrike Kistner, Kamogelo Lekubu, Andile Mngxitama, Prishani Naidoo, John Shai, and S'bu Zulu.

#### The 1AC and any perm forecloses the possibility of radical questioning about the ethicality of civil society by structurally adjusting the black body through the “political action” that ceases to be “inclusive” – the aff’s starting point places the black body upon a psychologically traumatic, dielectric state of abandonment that forecloses black liberation – if we win that their scholarship produces this structural violence that is an independent reason to vote negative

**Wilderson ‘10** (Frank B Wilderson III- Professor at UC irvine- Red, White and Black- p.  **8-10)**

I have little interest in assailing political conservatives. Nor is my ar- gument wedded to the disciplinary needs of political science, or even sociology, where injury must be established, first, as White supremacist event, from which one then embarks on a demonstration of intent, or racism; and, if one is lucky, or foolish, enough, a solution is proposed. If the position of the Black is, as I argue, a paradigmatic impossibility in the Western Hemisphere, indeed, in the world, in other words, if a Black is the very antithesis of a Human subject, as imagined by Marxism and psy- choanalysis, then his or her paradigmatic exile is not simply a function of repressive practices on the part of institutions (as political science and sociology would have it). This banishment from the Human fold is to be found most profoundly in the emancipatory meditations of Black people's staunchest "allies," and in some of the most "radical" films. Here—not in restrictive policy, unjust legislation, police brutality, or conservative scholarship—is where the Settler/Master's sinews are most resilient. The polemic animating this research stems from (1) my reading of Native and Black American meta-commentaries on Indian and Black subject positions written over the past twenty-three years and ( 2 ) a sense of how much that work appears out of joint with intellectual protocols and political ethics which underwrite political praxis and socially engaged popular cinema in this epoch of multiculturalism and globalization. The sense of abandonment I experience when I read the meta-commentaries on Red positionality (by theorists such as Leslie Silko, Ward Churchill, Taiaiake Alfred, Vine Deloria Jr., and Haunani-Kay Trask) and the meta-commentaries on Black positionality (by theorists such as David Marriott, Saidiya Hartman, Ronald Judy, Hortense Spillers, Orlando Patterson, and Achille Mbembe) against the deluge of multicultural positivity is overwhelming. One suddenly realizes that, though the semantic field on which subjec- tivity is imagined has expanded phenomenally through the protocols of multiculturalism and globalization theory, Blackness and an unflinching articulation of Redness are more unimaginable and illegible within this expanded semantic field than they were during the height of the F B I ' S repressive Counterintelligence Program ( C O I N T E L P R O ) . On the seman- tic field on which the new protocols are possible, Indigenism can indeed lO become partially legible through a programmatics of structural adjust- ment (as fits our globalized era). In other words, for the Indians' subject position to be legible, their positive registers of lost or threatened cultural identity must be foregrounded, when in point of fact the antagonistic register of dispossession that Indians "possess" is a position in relation to a socius structured by genocide. As Churchill points out, everyone from Armenians to Jews have been subjected to genocide, but the Indigenous position is one for which genocide is a constitutive element, not merely an historical event, without which Indians would not, paradoxically, "exist." 9 Regarding the Black position, some might ask why, after claims suc- cessfully made on the state by the Civil Rights Movement, do I insist on positing an operational analytic for cinema, film studies, and political theory that appears to be a dichotomous and essentialist pairing of Masters and Slaves? In other words, why should we think of today's Blacks in the United States as Slaves and everyone else (with the exception of Indians) as Masters? One could answer these questions by demonstrat- ing how nothing remotely approaching claims successfully made on the state has come to pass. In other words, the election of a Black president aside, police brutality, mass incarceration, segregated and substandard schools and housing, astronomical rates of H I V infection, and the threat of being turned away en masse at the polls still constitute the lived expe- rience of Black life. But such empirically based rejoinders would lead us in the wrong direction; we would find ourselves on "solid" ground, which would only mystify, rather than clarify, the question. We would be forced to appeal to "facts," the "historical record," and empirical markers of stasis and change, all of which could be turned on their head with more of the same. Underlying such a downward spiral into sociology, political sci- ence, history, and public policy debates would be the very rubric that I am calling into question: the grammar of suffering known as exploitation and alienation, the assumptive logic whereby subjective dispossession is arrived at in the calculations between those who sell labor power and those who acquire it. The Black qua the worker. Orlando Patterson has already dispelled this faulty ontological grammar in Slavery and Social Death, where he demonstrates how and why work, or forced labor, is not a constituent element of slavery. Once the "solid" plank of "work" is removed from slavery, then the conceptually coherent notion of "claims against the state"—the proposition that the state and civil society are elastic enough to even contemplate the possibility of an emancipatory project for the Black position—disintegrates into thin air. The imaginary of the state and civil society is parasitic on the Middle Passage. Put an- other way, No slave, no world. And, in addition, as Patterson argues, no slave is in the world. If, as an ontological position, that is, as a grammar of suffering, the Slave is not a laborer but an anti-Human, a position against which Hu- manity establishes, maintains, and renews its coherence, its corporeal in- tegrity; if the Slave is, to borrow from Patterson, generally dishonored, perpetually open to gratuitous violence, and void of kinship structure, that is, having no relations that need be recognized, a being outside of re- lationality, then our analysis cannot be approached through the rubric of gains or reversals in struggles with the state and civil society, not unless and until the interlocutor first explains how the Slave is of the world. The onus is not on one who posits the Master/Slave dichotomy but on the one who argues there is a distinction between Slaveness and Blackness. How, when, and where did such a split occur? The woman at the gates of Columbia University awaits an answer.

#### Thus, the ROB is to vote for the debater who best methodologically challenges anti-blackness.

## Case

#### [1] Aggregation is bad—excludes blackness, reproduces dysgraphia, the inability of language to cohere around the bodies and the suffering of Black ppl

**Warren 18** (Calvin L. Warren is an Associate Professor in African American Studies and WGSS. He received his B.A. in Rhetoric/Philosophy (College Scholar) from Cornell University and his MA and Ph.D. in African American/American Studies from Yale University), “Ontological Terror: Blackness, Nihilism, and Emancipation”, Duke University Press, 2018, Pg. 115-118. KD

Hortense Spillers identifies medical science as a particularly terroristic field in relation to blackness. Reading through the work of William Goodell, she traces out the vicious profit motive, which creates an economy of selling and purchasing diseased, damaged, incurable, disabled, and otherwise worthless black bodies. She suggests, “This profitable ‘atomizing’ of the captive body provides another angle on the divided flesh: we lose any hint or suggestion of a dimension of ethics, of relatedness between human personality and its anatomical features, between human personality and cultural institutions. To that extent, the procedures adopted for the captive flesh demarcate a total objectification, as the entire captive community becomes a living laboratory.”

What Spillers describes here is a metaphysical procedure: what is totally objectified is more than just the captive’s body. **The real object of analysis is nothing.** (It is the attempt to make nothing an object through the captive’s abject body.) Thus, the essence of science is not scientific. This nothing horrifies science, and, consequently, the black body also horrifies science. This horror, however, translates into both a will to know and a process of disavowal (the Heideggerian conflict), and both reinforce/generate each other. In other words, black bodies become living laboratories because these bodies hold the secret of science—what it most wishes to know and what it most wishes not to know. This play between knowing and not knowing, desiring and detesting, hating and admiring would seem to land us in Lacanian territory, something like a scientific unconscious. Science is obsessed with this nothing—its limit and its possibility. As Heidegger asserted, when science attempts to explore its own essence, it relies on this very nothing it rejects and detects for the exploration.11 The atomizing Spillers describes is a philosophical procedure under the guise of scientific objectivity. Andrew Curran would describe this scientific atomization as a textualization of the African through discourses such as anatomy.12 Textualizing the black body would require a vicious hermeneutical-semiotic practice of reading blackness as a sign of abject nothingness. **The black body, then, is a scientific mediator of sorts between the dreaded nothing and a scientific field determined to calculate, schematize, and dominate this nothing**. This is precisely why black being is so valuable to science: black being enables the total suspension of limits (ethical, moral, and spiritual), and this suspension leaves the scientific imagination unbounded in its antiblack quest for knowledge, truth, and power. A living laboratory has no rights that a white scientific mind is bound to respect, no limitations on scientific creativity, and no resistance against scientific objectification. As equipment in human form, black being broaches infinity, nothing encased in a body. Our aim, then, is to understand the function of science in this metaphysical holocaust and to dispel the myth of objectivity, which masks metaphysical cruelty behind the auspices of scientific discovery. In its schematization, **science also relies on the mathematical mind and its procedures to give numerical form to the formless**—the infinite and the nothing. Katherine McKittrick calls this the “mathematics of unlivingness,” where metaphysical thinking deploys numbers and calculative thinking to perpetuate the metaphysical holocaust. This is to suggest that **numbers are weaponized against black being, mobilized to create a destructive calculus.** She understands the invention of black being as emerging through numbers and the crude economy of commerce: “This is where blackness comes from: the list, the breathless numbers, the absolutely economic, the mathematics of the unliving.”The purpose, then, of metaphysical arithmetic (schematized, calculative thinking) is to produce the unliving, the very death that Joe so insisted to Dr. Wragg. Once situated on the ledger, financial documents, and wills, black being is cast outside Dasein. These numbers provide space to black being without an ontological place—this is how numbers contribute to the metaphysical holocaust. **Numbers conceal this devastation behind purported objectivity, but the number and its calculus are far from innocuous.** The ledger is precisely the reification of this non-place (this nothing), and it is the way metaphysics can in fact contend with it.

#### [2] Best stats and empirical analysis prove no progress – their ev doesn’t account for structural issues and black people’s standing in relation to white counterparts

**Jan 18**, (Tracy Jan - covers the intersection of race and the economy for The Washington Post. She previously was a national political reporter at the Boston Globe) Washington Post, , "Report: No progress for African Americans on homeownership, unemployment and incarceration in 50 years," https://www.washingtonpost.com/news/wonk/wp/2018/02/26/report-no-progress-for-african-americans-on-homeownership-unemployment-and-incarceration-in-50-years//mr.ghs

Convened to examine the causes of civil unrest in black communities, the presidential commission issued a 1968 report with a stark conclusion: America was moving toward two societies, “one black, one white — separate and unequal.” Fifty years after the historic Kerner Commission identified “white racism” as the key cause of “pervasive discrimination in employment, education and housing,” there has been no progress in how African Americans fare in comparison to whites when it comes to homeownership, unemployment and incarceration, according to a report released Monday by the Economic Policy Institute. In some cases, African Americans are worse off today than they were before the civil rights movement culminated in laws barring housing and voter discrimination, as well as racial segregation. 7.5 percent of African Americans were unemployed in 2017, compared with 6.7 percent in 1968 — still roughly twice the white unemployment rate. The rate of homeownership, one of the most important ways for working- and middle-class families to build wealth, has remained virtually unchanged for African Americans in the past 50 years. Black homeownership remains just over 40 percent, trailing 30 points behind the rate for whites, who have seen modest gains during that time. The share of incarcerated African Americans has nearly tripled between 1968 and 2016 — one of the largest and most depressing developments in the past 50 years, especially for black men, researchers said. African Americans are 6.4 times as likely than whites to be jailed or imprisoned, compared with 5.4 times as likely in 1968. “We have not seen progress because we still have not addressed the issue of racial inequality in this country,” said John Schmitt, an economist and vice president of the Economic Policy Institute, citing the racial wealth gap and continuing racial discrimination in the labor and housing markets. “One of the key issues is the disadvantages so many African Americans face, right from the very beginning as children.” The wealth gap between white and black Americans has more than tripled in the past 50 years, according to Federal Reserve data. The typical black family had zero wealth in 1968. Today the median net worth of white families — $171,000 — is 10 times that of black families. The wealth black families have accumulated is negligible when it comes to the amount of money needed to meet basic needs during retirement, pay for children’s college education, put a down payment on a house, or cope with a job loss or medical crisis, Schmitt said. [ Bolster black banks — and in the process, uplift a community that has been systematically marginalized for generations ] The lack of economic progress is especially startling, given that black educational attainment has improved significantly in the past five decades, Schmitt said. African Americans are almost as likely as whites to have completed high school. In 1968, 54 percent of blacks graduated from high school, compared with 75 percent of whites. Today, more than 90 percent of African Americans have a high school diploma, 3.3 percentage points shy of the high school completion rate for whites. The share of young African Americans with a college degree has more than doubled, to 23 percent, since 1968, although blacks are still half as likely as whites to have completed college. Yet the hourly wage of a typical black worker grew by just 0.6 percent a year since 1968. African Americans make 82.5 cents of every dollar earned by the typical white worker, the report said. And the typical black household earns 61.6 percent of the annual income of white households, with black college graduates continuing to make less than white college graduates. Despite the poverty rate dropping from more than a third of black households in 1968 to about a fifth of black households, African Americans are 2½ times as likely to be in poverty than whites. “We would have expected to see much more of a narrowing of the gap, given the big increase in educational attainment among African Americans,” Schmitt said. A book, “Healing Our Divided Society,” to be released Tuesday at a D.C. forum, also examines how little progress has been made in the past 50 years. Housing and schools have become resegregated, “locking too many African Americans into slums and their children into inferior schools.” White supremacists have become emboldened. And there is too much excessive use of force — often deadly — by police, especially against African Americans, notes the book, co-edited by Fred Harris, a former U.S. senator and sole surviving member of the Kerner Commission. “Whereas the Kerner Commission called for ‘massive and sustained’ investment in economic, employment and education initiatives, over the last 50 years America has pursued ‘massive and sustained’ incarceration framed as ‘law and order,’ ” the book says. “Mass incarceration has become a kind of housing policy for the poor.” The 1968 Kerner Commission report ended on a note of deja vu, citing a witness who recalled similar analyses, recommendations and, ultimately, inaction following a government investigation nearly 50 years earlier after the 1919 Chicago riot. “The destruction and the bitterness of racial disorder, the harsh polemics of black revolt and white repression have been seen and heard before in this country,” the report concluded.

#### [3] Policymaking is a form of interest convergence that attempts to achieve political gains through securing the long term goal of whites.

**Lee ’07.** Cynthia Lee, professor of law at George Washington University, “Cultural Convergence: Interest Convergence Theory Meets the Cultural Defense?” Arizona Law Review, Vol. 49, No. 4, Winter [49 Ariz. L. Rev. 911], George Washington University Legal Studies Research Paper No. 248; George Washington University Law School Public Law Research Paper No. 248, p. 922. [PDF Online @] http://ssrn.com/abstract=968754

Bell also posited that the Brown decision helped America in its efforts to persuade African Americans that they were a welcome part of the United States. Bell pointed out that Blacks who had fought for this country in World War II were returning home to widespread racial discrimination. Elite whites worried that in the event of another war, African Americans might be reluctant to fight again. The Brown decision was thus important domestically as a symbol of America’s commitment to equality.52 In later work, Bell elaborated upon his theory, explaining: [Only] when whites perceive that it will be profitable or at least cost-free to serve, hire, admit, or otherwise deal with blacks on a nondiscriminatory basis, they do so. When they fear—accurately or not—that there may be a loss, inconvenience, or upset to themselves or other whites, discriminatory conduct usually follows.53 According to Bell, “racism is a permanent feature of American society, necessary for its stability and for the well-being of the majority of its citizens.”54 Interest convergence explains how Blacks “are able to achieve political gains despite the essentially racist nature of American society.”55 Commenting on Bell’s theory, Charles Ogletree notes that interest convergence works as a safety valve, permitting “short-term gains for African Americans when doing so furthers the short- or long-term goals of the white elite. . . . This is an important check on widespread disaffection that may end in revolution.”56

#### [**4] Focus on material egalitarian conditions has never resolved anything for black people – this is a self-preservation link – working** w/in the state makes you complicit—ask yourself why they should be allowed to pass policies vis a vis the death of blackness – Enoch is a link – prior to evaluating government action ask yourself what the government has done for black people

#### **[5]** Fiat is terminally anti-black – allows debaters to escape their relationship to antiblackness through different worlds while ignoring the structural racism they perpetuate – extinction terminally non-unique—Mid passage was already extinction for black ppl since it layed the foundations for an anti-black wor -- Black death a lexical pre-req—MP gives coherence to their calculus

#### [6] Pleasure and pain are the link – white people derive their pleasure from black suffering – lynchings, police brutality, etc all exceed utility but pathologize black flesh to derive pleasure from their suffering

#### [7] off the t-ought argument – constraining debate to theory arguments is ludicrous and is meant to exclude K debate – this is another link – fairness is a white construct meant to uphold a system where antiblack practices are deemed fair – this decks any perm because it proves the aff didn’t want to engage off the bat

#### Alt causes to high drug prices and limited access to medicine

**Kilberg et al 16** (William J. Kilberg is the most senior partner in the Labor and Employment Law Practice Group at Gibson, Dunn & Crutcher LLP. He has served on the firm’s Executive Committee, five-member Management Committee, and as Partner-in-Charge of the Washington office. He has argued many significant matters before eight United States Courts of Appeals and the United States Supreme Court., James A. Paretti, Jr. is an experienced management-side employment and labor relations attorney with in-depth political and policy knowledge of labor, pension, healthcare and employment law, regulations and legislation. Jim is well versed in all aspects of legislative and political processes with demonstrated knowledge in the substance of federal labor and employment policy. He has over two decades of experience working with federal legislators and policymakers, including former Speaker of the U.S. House of Representatives, Chairmen of the U.S. House Committee on Education and the Workforce, and senior level administration officials., Marisa Maleck focuses on litigation, regulatory matters and public policy, with a focus on consumer products. As a former senior counsel at a bio-tech company and in private practice, Marisa has substantial experience with and is skilled in providing creative solutions in the face of uncertainty. Marisa represents clients in a variety of matters with a focus on FDA-regulated products like food, beverages, pharmaceuticals, medical devices, wellness products, cosmetics, tobacco and cannabis. As a former senior counsel at an FDA-regulated biotech company and as a former partner in King & Spalding’s Litigation and Global Disputes practice group, she handled hundreds of suits in a multi-district litigation, multiple agency inquiries, an FTC lawsuit and 10+ state Attorney Generals actions. ), “The United Nations' Misguided Approach to Healthcare Access”, 9-6-16, The Federalist Society, <https://fedsoc.org/commentary/fedsoc-blog/the-united-nations-misguided-approach-to-healthcare-access> NT

The Panel Is Poised To Ignore Real Access Problems The Panel’s misguided focus on patents has led the U.S. State Department to encourage the Panel to abandon its “narrow mandate” and instead focus on actual obstacles that stand in the way of persons obtaining life-saving drugs. Echoing the WHO, the State Department has pointed to four main reasons that the developing world lacks access to healthcare: (1) an inability to select and use medicines rationally; (2) unaffordable drug prices; (3) unreliable health and supply systems; and (4) inadequate financing. **None of these barriers are directly related to patents**. First, irrational drug use is a serious barrier to access. The WHO defines “irrational use” as any use that is not “appropriate to [patients’] clinical needs, in doses that meet their own individual requirements, for an adequate period of time, and at the lowest cost to them and their community.” Two recent studies conducted in Africa illustrate this problem. One study conducted at Kapiri Mposhi District Hospital in Central province, Zambia found a high prevalence of irrational drug use. Fifty percent of 680 patient records surveyed showed some form of inappropriate drug use. And a study in Sudan found that 73% of participants reported to have acquired and used medication without a prescription at least a month prior to the study. Second, there is no doubt that affordability is a barrier to access. But patent protections are not to blame. In fact, patents do not protect the vast majority of essential medicines, which the WHO defines as “those drugs that satisfy the health care needs of the majority of the population.” 350 of these 375 “essential medicines” are available in generic versions and are thus sold at a much lower price point. Moreover, data shows that patent-holding companies do not frequently make use of patent laws in developing countries, even where they could. Moreover, **patent rights do not explain the high cost of drugs in the developing world.** The WHO itself points out that **taxes, tariffs** and other government policies play a significant role in keeping drug prices high in emerging markets. And, in fact, reports have concluded that excessive tariffs and taxes on imported medicines **may inflate the cost of medicines by up to one-third.** When combined with taxes on medicines, government-imposed levies account for an additional 55% in India; 40% in Sierra Leone; 34% in Nigeria; and 29% in Bangladesh. In any event, contrary to the Panel’s suggestion, patent protections ultimately help keep the costs of drugs low. To be sure, patented drug prices will often decline only after a patent expires. But the decline in price after patent expiration is not evidence that the drug manufacturer charged too much for the product. To the contrary, the decline in price of a formerly patented medicine is consistent with an efficient market. Patents expire after a certain period of time fixed by law. As economists have explained, during this period, prices will reflect both the costs of production and the company’s research and development costs. The exclusivity period that the patent creates attracts investment, which enables the innovator company to recoup its research and development costs. Once the patent expires, other companies may create generics that are priced lower. But these lower costs reflect the fact that copycat companies only need to recoup production costs, not research and development. In other words, a patent’s provision of an opportunity for an innovator company to recover costs enables it to produce the medicine in the first place. And the patent’s eventual expiration allows for robust competition that drives prices down. Third, as many experts point out, structural and economic barriers are a significant barrier to access to medicine in the developing world. Poor infrastructure and weak healthcare systems plague third-world countries. Several countries’ medical centers are located in remote areas that may only be reached through impassable roads. Also, many drugs and vaccines must be stored at certain temperatures. But many developing countries lack reliable electricity and sanitary facilities to enable proper storage. In India, for example, a quality-control study followed a series of vaccine vials through the supply-chain delivery process. The study found that 76 percent of the vaccines could not be used because they were stored in substandard storage facilities. Fourth, experts also acknowledge that developing countries tend to underinvest in health. In 2001, for example, African leaders met in Abuja, Nigeria, and pledged to allocate 15 percent of their national budgets to health. The 2015 DATA Report found, however, that between 2011 and 2013, just eight of the 47 countries for which there was data available spent 15 percent or more on health: Uganda, Rwanda, Malawi, Swaziland, Nigeria, Ethiopia, Liberia, and Togo. Twenty countries did not reach even the 10 percent level. If anything, patent protections could incentivize further investment in health in these countries. \* \* \* The UN has a real opportunity to address the critical issue of healthcare access. As it stands now, however, it seems poised to do more damage than good.