# 1 - K

#### The subject is fundamentally unstable: being is in flux due to things such as time, I am not the same person that I was a years ago, which proves personal evolution. Affect is constitutive: it is the capacity to experience and to be experienced. I am experiencing my laptop, my opponent, just as much as you are experiencing me. There is no way any person or thing can escape affection. Fluidity determines the subject: because affect and instability ensure that subjects always change, the only intrinsic feature of the subject is that everything remains in flux. Emphasis on particular aspects of subjectivity only drives division in the proletariat.

#### The state and the court are focused on eliminating deviancy from the western Man. The aff’s position of granting rights to workers not only posits the state above all others, it begs the question of who is included in these rights. By including humans, it begs the question, who is not human? Who doesn’t deserve rights? Thus the guise of progress hides regression – inclusion only pushes others farther from the colorline of inclusion.

Weheliye **1** [Alexander Weheliye; Associate Professor of African American Studies at Northwestern University; 2014; “Habeas Viscus: Racializing Assemblages, Biopolitics, and Black Feminist Theories of the Human”; LCA-BP recut]

Paradoxically, the particular biological material in question remains the property, at least nominally, of all humanity and is not proper to Moore the individual person: “Lymphokines, unlike a name or a face, have the same molecular structure in every human being and the same, important functions in every human being’s immune system. Moreover, the particular genetic material which is responsible for the natural production of lymphokines, and which defendants use to manufacture lymphokines in the laboratory, is also the same in every person; it is no more unique to Moore than the number of vertebrae in the spine or the chemical formula of hemoglobin.”20 **So, while the court grants personhood to human subjects in an individualized fashion that is based on comparatively distinguishing between different humans,** when biological material clashes with the interests of capital, the court appeals to the indivisible biological sameness of the Homo sapiens species. **Since the court’s ruling does not place this slice of human flesh in the commons for all humans to share, it tacitly grants corporations the capability of legally possessing this material with the express aim of generating monetary profit. Considering that corporations enjoy the benefits of limited personhood** and the ability to live forever under U.S. law, corporate entities are entrusted with securing the immortal life of biological matter, **while human persons are denied ownership of their supposed essence.**21 My interest here lies not in claiming inalienable ownership rights for cells derived from human bodies such as Lacks’s and Moore’s but to draw attention to how thoroughly the very core of pure biological matter is framed by neoliberal market logics and by liberal ideas of personhood as property. **We are in dire need of alternatives to the legal conception of personhood that dominates our world, and, in addition, to not lose sight of what remains outside the law, what the law cannot capture, what it cannot magically transform into the fantastic form of property ownership.** Writing about the connections between transgender politics and other forms of identity based activism that respond to structural inequalities, legal scholar Dean Spade shows how **the focus on inclusion, recognition, and equality based on a narrow legal framework (especially as it pertains to antidiscrimination and hate crime laws) not only hinders the eradication of violence against trans people and other vulnerable populations but actually creates the condition of possibility for the continued unequal “distribution of life chances**.”**22 If demanding recognition and inclusion remains at the center of minority politics, it will lead only to a delimited notion of personhood as property that zeroes in comparatively on only one form of subjugation at the expense of others, thus allowing for the continued existence of hierarchical differences between full humans, not- quite- humans, and nonhumans.** This can be gleaned **from the “successes” of the mainstream feminist, civil rights, and lesbian- gay rights movements, which facilitate the incorporation of a privileged minority into the ethnoclass of Man at the cost of the still and/or newly criminalized and disposable populations (women of color, the black poor, trans people, the incarcerated, etc.)**.23 To make claims for inclusion and humanity via the U.S. juridical assemblage removes from view that the law itself has been thoroughly violent in its endorsement of racial slavery, indigenous genocide, Jim Crow, the prison- industrial complex, domestic and international warfare, and so on, and that it continues to be one of the chief instruments in creating and maintaining the racializing assemblages in the world of Man. Instead of appealing to legal recognition, Julia Oparah suggests counteracting the “racialized (trans)gender entrapment” within the prison- industrial complex and beyond with practices of “maroon abolition” (in reference to the long history of escaped slave contraband settlements in the Americas) to “foreground the ways in which often overlooked African diasporic cultural and political legacies inform and undergird antiprison work,” while also providing strategies and life worlds not exclusively centered on reforming the law.24 Relatedly, Spade calls for a radical politics articulated from the “ ‘impossible’ worldview of trans political existence,” which redefines “the insistence of government agencies, social service providers, media, and many nontrans activists and nonprofiteers that the existence of trans people is impossible.”25 A relational maroon abolitionism beholden to the practices of black radicalism and that arises from the incompatibility of black trans existence with the world of Man serves as one example of how putatively abject modes of being need not be redeployed within hegemonic frameworks but can be operationalized as variable liminal territories or articulated assemblages in movements to abolish the grounds upon which all forms of subjugation are administered. The idea of bare life as espoused by Giorgio Agamben and his followers discursively duplicates the very violence it describes without offering any compelling theoretical or political alternatives to our current order. Paradoxically, by insisting on a limited notion of the law at the cost of neglecting so many other facets that flow into the creation of bare life, Agamben preempts a rigorous and imaginative thinking of the political imaginary that rests in the tradition of the oppressed. Agamben’s impoverished conception of the political comes into view most clearly in the lack of current or past alternatives it offers to our current order and when we consult the fleshly testimonies of and about subjects that inhabit the sphere of mere life (the enslaved, political prisoners, concentration camp detainees, for instance). Still, these voices should not be construed as fountains of suffering authenticity but as instantiations of a radically different political imaginary, which refuses to only see, feel, hear, smell, and taste bare life in the subjectivity of the oppressed.

#### When granting rights, the state outlines a group of individuals to grant it to – those who are seen as human. That’s determined by how close someone is to the “ideal”, straight, white, cisgender man. While the state offered rights to indigenous people who converted closer to whiteness and the Man, it even further excluded the enslaved people – distancing them from the Man and solidifying the hierarchy of western Man above all else. Thus, the role of the ballot is to deconstruct the western Man.

Weheliye 2 [Alexander Weheliye; Associate Professor of African American Studies at Northwestern University; 2014; “Habeas Viscus: Racializing Assemblages, Biopolitics, and Black Feminist Theories of the Human”; LCA-BP recut]

Nevertheless, the benefits accrued **through the juridical acknowledgment of racialized subjects as fully human often exacts a steep entry price**, because **inclusion hinges on accepting the codification of personhood as property, which is, in turn, based on the comparative distinction between groups**, as in one of the best-known court cases in U.S. history: the Dred Scott case. In 1857, the Supreme Court invalidated Dred Scott’s habeas corpus, since, as an escaped slave, Scott could not be a legal person. According to Chief Justice Taney: “Dred Scott is not a citizen of the State of Missouri, as alleged in his declaration, because he is a negro of African descent; his ancestors were of pure African blood, and were brought into this country and sold as negro slaves.”8 In order to justify withdrawing Dred Scott’s legal right to ownership of self, Chief Justice Taney’s opinion in the decision contrasts the status of black subjects with the legal position of Native Americans visà-vis the possibility of U.S. citizenship and personhood: “The situation of [the negro] population was altogether unlike that of the Indian race. These Indian Governments were regarded and treated as foreign Governments. . . . [Indians] may, without doubt, like the subjects of any other foreign Government, be naturalized . . . and become citizens of a State, and of the United States; and if an individual should leave his nation or tribe, and take up his abode among the white population, he would be entitled to all the rights and privileges which would belong to an emigrant from any other foreign people.”9 **While slaves were not accorded the status of being humans that belonged to a different nation, Indians could theoretically overcome their lawful foreignness, but only if they renounced previous forms of personhood and citizenship. Hence, the tabula rasa of whiteness—which all groups but blacks can access—serves as the prerequisite for the law’s magical transubstantiation of a thing to be possessed into a property-owning subject.10 The judge’s comparison underscores the dangers of ceding definitions of personhood to the law and of comparing different forms of political subjugation, since hypothetical Indian personhood in the law rests on attaining whiteness and the violent denial of said status to black subjects.** Additionally, while **the court conceded limited capabilities of personhood to indigenous subjects if they chose to convert to whiteness, it did not prevent the U.S. government from instituting various genocidal measures to ensure that American Indians would become white and therefore no longer exist as Indians.** In other words, the legal conception of personhood comes with a steep price, as in this instance where being seemingly granted rights laid the groundwork for the U.S. government’s genocidal policies against Native Americans, since the “racialization of indigenous peoples, especially through the use of blood quantum classification, in particular follows . . . ‘genocidal logic,’ rather than simply a logic of subordination Law 79 or discrimination,” and as a result “**whiteness constitutes a project of disappearance for Native peoples rather than signifying privilege.”11 Beginning in the nineteenth century the U.S. government instituted a program in which Native American children were forcibly removed from their families and placed in Christian day and boarding schools, and which sought to civilize children by “killing the Indian to save the man,”** representing one of the most significant examples of the violent and legal enforced assimilation of Native Americans into U.S. whiteness.12 Though there is no clear causal relationship between Taney’s arguments in the Scott decision and the boarding school initiative, both establish that **legal personhood is available to indigenous subjects only if the Indian can be killed—either literally or figuratively—in order to save the world of Man** (in this case settler colonialism and white supremacy). Furthermore, the denial of personhood qua whiteness to African American subjects does not stand in opposition to the genocidal wages of whiteness bequeathed to indigenous subjects but rather represents different properties of the same racializing juridical assemblage that differentially produces both black and native subjects as aberrations from Man and thus not-quite-human. The writ of habeas corpus—and **the law more generally—anoints those individualized subjects who are deemed deserving with bodies even while this assemblage continually enlists new and/or different groups to exclude, banish, or exterminate from the world of Man**. In the end**, the law, whether bound by national borders or spanning the globe, establishes an international division of humanity, which grants previously excluded subjects limited access to personhood as property at the same time as it fortifies the supremacy of Man.13**

#### Legal recognition happens on the comparison of suffering between individuals which is psychologically violent since the oppressed have to make the hardest part of their life comfortable to their oppressors so they get rights. Instead, politics should focus on overcoming instead of dwelling in their current suffering.

Weheliye **3** [Alexander Weheliye; Associate Professor of African American Studies at Northwestern University; 2014; “Habeas Viscus: Racializing Assemblages, Biopolitics, and Black Feminist Theories of the Human”; LCA-BP recut]

**Suffering**, especially when caused by political violence, **has long functioned as the hallmark of both humane sentience and of inhuman brutality**. Frequently, suffering **becomes the defining feature of those subjects excluded from the law, the national community, humanity, and so on due to the political violence inflicted upon them even as it, paradoxically, grants them access to inclusion and equality.** In western human rights discourse, for instance, the **physical and psychic residues of political violence enable victims to be recognized as belonging to the “brotherhood of Man.”** Too often, **this tendency not only leaves intact hegemonic ideas of humanity as indistinguishable from western Man but demands** comparing different forms of subjugation in order to adjudicate who warrants recognition and belonging. As W. E. B. Du Bois asked in 1944, if the Universal Declaration of Human Rights did not offer provisions for ending world colonialism or legal segregation in the United States, “Why then call it the Declaration of Human Rights?”2 Wendy Brown maintains, “politicized identity” operates “only by entrenching, restating, dramatizing, and inscribing its pain in politics; it can hold out no future . . . that triumphs over this pain.”3Brown suggests **replac[e]ing the identitarian declaration “I am,” which merely confirms and solidifies what already exists, with the desiring proclamation “I want,” which offers a Nietzschean politics of overcoming pain instead of clinging to suffering as an immutable feature of identity politics**. While I recognize Brown’s effort to formulate a form of minority politics not beholden to the aura of wounded attachments and fixated almost fetishistically on the state as the site of change, we do well to recall that many of the **political** agendas based on **identity** (the suffragette movement, the movement for the equality of same-sex marriages, or the various movements for the full civil rights of racialized minority subjects, for instance) **are less concerned with claiming** their **suffering** per se (I am) **than** they are with **using** **wounding as a stepping stone** in the quest (I want) for rights equal to those of full citizens. **Liberal governing bodies, whether in the form of nation-states or supranational entities such as the United Nations or the International Criminal Court make particular forms of wounding the precondition for entry into the hallowed halls of full personhood, only acknowledging certain types of physical violence**. For instance, while the United Nations High Commissioner for Refugees passed a resolution in 2008 that includes rape and other forms of sexual violence in the category of war crimes, there are many forms of sexual violence that do not fall into this purview, and thus bar victims from claiming legal injury and/or personhood.4 Even more generally, the acknowledgment and granting of full personhood of those excluded from its precincts requires the overcoming of physical violence, while epistemic and economic brutalities remain outside the scope of the law. Congruently, much of the politics constructed around the effects of political violence, especially within the context of international human rights but also with regard to minority politics in the United States, is constructed from the shaky foundation of surmounting or desiring to leave behind physical suffering so as to take on the ghostly semblance of possessing one’s personhood. Then and only then will previously minoritized subjects be granted their humanity as a legal status. Hence, the glitch Brown diagnoses in identity politics is less a product of the minority subject’s desire to desperately cling to his or her pain but a consequence of the state’s dogged insistence on suffering as the only price of entry to proper personhood, what Samera Esmeir has referred to as a “juridical humanity” that bestows and rescinds humanity as an individualized legal status in the vein of property.5 Apportioning personhood in this way maintains the world of Man and its attendant racializing assemblages, which means in essence that the entry fee for legal recognition is the acceptance of categories based on white supremacy and colonialism, as well as normative genders and sexualities.

#### By emphasizing the distinctions between humans, not-quite humans, and non-humans, whiteness becomes viewed as Truth and the bar at which everyone is compared is the color line. The color line emphasizes phenotypical distinctions as the standard for which bodies enter spaces of liminality.

Wynter 3 [Sylvia; 2003; “Unsettling the Coloniality of Being/Power/Truth/Freedom: Towards the Human, After Man, Its Overrepresentation--An Argument,” CR: The New Centennial Review, Volume 3, Number 3,257-337 LCA-BP recut]  
The Argument proposes **that the new master code of the bourgeoisie and of its ethnoclass conception of the human** - that is, the code of selected by Evolution/dysselected by Evolution- was now to be mapped and anchored on the only available "objective set of facts" that remained. **This was the set of environmentally, climatically determined phenotypical differences between human hereditary variations as these had developed in the wake of the human diaspora both across and out of the continent of Africa; that is, as a set of (so to speak) totemic differences, which were now harnessed to the task of projecting the Color Line drawn institutionally and discursively between whites/nonwhites** - and at its most extreme between the Caucasoid physiognomy (as symbolic life, the name of what is good, the idea that some humans can be selected by Evolution) and the Negroid phys- iognomy (as symbolic death, the "name of what is evil," **the idea that some humans can be dysselected by Evolution)- as the new extrahuman line, or projection of genetic nonhomogeneity that would now be made to function,** analogically, as the status-ordering principle based upon ostensibly differ- ential degrees of evolutionary selectedness/eugenicity and/or dysselected- ness/dysgenicity. **Differential degrees, as between the classes** (middle and lower and, by extrapolation, between capital and labor) as well as **between men and women, and between the heterosexual and homosexual** erotic preference - and, even more centrally, as **between Breadwinner** (job- holding middle and working classes) **and the jobless and criminalized** Poor, with this rearticulated at the global level as between Sartre's "**Men" and Natives** (see his guide-quote), before the end of politico-military colonial- ism, then postcolonially as between the "developed" First World, on the one hand, and the "underdeveloped" Third and Fourth Worlds on the other. **The Color Line was now projected as the new "space of Otherness" principle of nonhomogeneity, made to reoccupy the earlier places of the motion-filled heavens/non-moving Earth, rational humans/irrational animal lines, and to recode in new terms their ostensible extrahumanly determined differences of ontological substance**. While, if the earlier two had been indispen- sable to the production and reproduction of their respective genres of being human, of their descriptive statements (i.e., as Christian and as Mam), and of the overall order in whose field of interrelationships, social hierarchies, system of role allocations, and divisions of labors each such genre of the human could alone realize itself- and with each such descriptive state- ment therefore being rigorously conserved by the "learning system" and order of knowledge as articulated in the institutional structure of each order - this was to be no less the case with respect to the projected "space of Otherness" of **the Color Line**. With respect, that is, **to its indispensability to the production and reproduction of our present genre of the human Mam, together with the overall global/national bourgeois order of things and its specific mode of economic production, alone able to provide the material conditions of existence for the production and reproduction of the ethnoclass or Western-bourgeois answer that we now give to the question of the who and what we are.**

#### Instead of centering our humanity around Habeas Corpus, habeas viscus centers it around the flesh. It gives us a new way of emancipating ourselves from the confines of the colorline and the state. Thus the alt is habeas viscus – a reimagination of humanity that eliminates the legal body. It focuses on affective bonds and community building which disengages us from the violent state.

Weheliye 4 [Alexander Weheliye; Associate Professor of African American Studies at Northwestern University; 2014; “Habeas Viscus: Racializing Assemblages, Biopolitics, and Black Feminist Theories of the Human”;]

The poetics and **politics** that I have been discussing under the heading of **habeas viscus or the flesh are concerned not with inclusion in reigning precincts of the status quo but, in Cedric Robinson’s apt phrasing, “the continuing development of a collective consciousness informed by the historical struggles for liberation and motivated by the shared sense of obligation to preserve [and I would add also to reimagine] the collective being, the ontological totality.”31 Though the laws of Man place the flesh outside the ferocious and ravenous perimeters of the legal body, habeas viscus defies domestication both on the basis of particularized personhood as a result of suffering, as in human rights discourse, and on the grounds of the universalized version of western Man. Rather, habeas viscus points to the terrain of humanity as a relational assemblage exterior to the jurisdiction of law given that the law can bequeath or rescind ownership of the body so that it becomes the property of proper persons but does not possess the authority to nullify the politics and poetics of the flesh found in the traditions of the oppressed**. As a way of conceptualizing politics, then, **habeas viscus diverges from the discourses and institutions that yoke the flesh to political violence in the modus of deviance**. Instead, it translates the hieroglyphics of the flesh into a potentiality in any and all things, an originating leap in the imagining of future anterior freedoms and new genres of humanity. To envisage **habeas viscus** as a forceful assemblage of humanity **entails leaving behind the world of Man and some of its attendant humanist pieties.** As opposed to depositing the flesh outside politics, the normal, the human, and so on, we need a better understanding of its varied workings in order to disrobe the cloak of Man, which gives the human a long-overdue extreme makeover; or, in the words of Sylvia Wynter, “the struggle of our new millennium will be one between the ongoing imperative of securing the well-being of our present ethnoclass (i.e. western bourgeois) conception of the human, Man, which overrepresents itself as if it were the human itself, and that of securing the well-being, and therefore the full cognitive and behavioral autonomy of the human species itself/ourselves.”32 Claiming and **dwelling in the monstrosity of the flesh present some of the weapons in the guerrilla warfare to “secure the full cognitive and behavioral autonomy of the human species**,” since these liberate from captivity assemblages of life, thought, and politics from the tradition of the oppressed and, **as a result, disfigure the centrality of Man as the sign for the human**. As an assemblage of humanity, **habeas viscus animates the elsewheres of Man and emancipates the true potentiality that rests in those subjects who live behind the veil of the permanent state of exception**: freedom; assemblages of freedom that sway to the temporality of new syncopated beginnings for the human beyond the world and continent of Man. German r&b group Glashaus’s track “Bald (und wir sind frei) [Soon (and We Are Free)]” performs this overdetermined idea of freedom as disarticulated from Man both graphically and sonically. Paying tribute to both the nineteenth-century spiritual “We’ll Soon Be Free,” written on the eve of the American Civil War, and Donny Hathaway’s 1973 recording, “Someday We’ll All Be Free,” Glashaus’s title “Bald (und wir sind frei)” enacts the disrupted yet intertwined notions of freedom, temporality, and sociality that I am gesturing to here.33 In contrast to its predecessors, which are resolutely located in the future via the use of soon/someday and the future tense, Glashaus’s version renders freedom in the present tense, albeit qualified by the imminent future of “bald [soon]” and by the typographical parenthetical enclosure of “(und wir sind frei) [and we are free].” The flow of the parentheses intimates both distance and nearness, ragging the homogeneous, empty future of “soon” with a potential present of a “responsible freedom” (Spillers) and/as sociality. The and and the parentheses are the conduits for bringing-into-relation freedom’s nowtime and its constitutive potential futurity without resolving their tension. The lyrics of “Bald (und wir sind frei)” once again exemplify this complementary strain in that the words in the verses are resolutely future oriented, ending with the invocation of “bald” just before the chorus, which, held in the potential abyss of the present, repeats, “und wir sind frei.” Likewise, in the verses, Glashaus’s singer Cassandra Steen, accompanied only by a grand piano, just about whispers, whereas she opens up to a more mellifluous style of singing in the chorus; as a result, the verses (bald/future) sound constricted and restrictive but only when heard in relation to the expansive spatiality of the chorus (present). What initially looks like a bracketed afterthought on the page punctures the putatively central point in the sonic realm. It is not a vacant, uniform, or universal future that sets in motion liberty but rather the future as it is seen, felt, and heard from the enfleshed parenthetical present of the oppressed, since this group’s now is always already bracketed (held captive and set aside indefinitely) in, if not antithetical to, the world of Man. The domain of **habeas viscus represents one significant mechanism by which the world of Man constrains subjects to the parenthetical, while at the same time disavowing this tendency via recourse to the abnormal and/ or inhuman. Heard, seen, tasted, felt, and lived in the ethereal shadows of Man’s world, however, a habeas viscus unearths the freedom that exists within the hieroglyphics of the flesh.** For the oppressed the future will have been now, since Man tucks away this group’s present in brackets. Consequently, the future anterior transmutes the simple (parenthetical) present of the dysselected into the nowtime of humanity during which **the fleshy hieroglyphics of the oppressed will have actualized the honeyed prophecy of another kind of freedom** (which can be imagined but not [yet] described) in the revolutionary apocatastasis of human genres.

# 2 – Theory

#### Interpretation: Debaters must specify how they enforce the unconditional right of workers to strike.

#### Violation: you didn’t’

#### 1] Topic lit – enforcement is the core question of the topic and there's no consensus on normal means so you must spec- also proves this specific interp isn’t infinitely regressive bc it is grounded in topic lit Weiss

Marley S. Weiss [Professor of Law, University of Maryland School of Law], 2000, “The Right To Strike In Essential Services Under United States Labor Law”, https://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=2189&context=fac\_pubs

2. Strikes, Lockouts, and Other Lawful Primary Weapons under the NLRA The parties, both labor and management, are under a duty to bargain in good faith with each other, “but such obligation does not compel either party to agree to a proposal or require the making of a concession”. The essential idea here is that both sides must genuinely try to reach mutual agreement. However, this simple concept is extremely difficult to enforce, and employers too often resort to bad faith bargaining, bargaining on the surface with no real intention of concluding an agreement, as part of a strategy to eliminate union representation from the workplace. In addition, the duty to bargain is limited to matters falling within the Section 8(d) statutory phrase, “wages, hours, and other terms and conditions of employment”, and the right to strike is similarly limited to issues falling within the scope of mandatory bargaining as defined by that phrase. Although the phrase has been broadly construed in many respects, as to certain issues, the contrary has been the case. Capital redeployment, that is, relocation of operations, disinvestment in unionized plants, subcontracting, and plant closure decisions, provide employers with a potent set of weapons against unions. While bargaining over the effects of such decisions is plainly mandatory, the extent to which bargaining is required over the decisions themselves have been hotly contested.

#### This acts as a resolvability standard. Debate has to make sense and be comparable for the judge to make a decision which means it's an independent voter and outweighs.

#### 2] Stable advocacy – 1AR clarification delinks neg positions that prove why enforcement in a certain instance is bad by saying it isn't their method of enforcement – wrecks neg ballot access and kills in depth clash – CX doesn't check since it kills 1NC construction pre-round since I don't know advocacy till in round, and judges do not flow cross ex so its not verifiable.

#### 3] Prep skew – I don't know what they will be willing to clarify until CX which means I could go 6 minutes planning to read a disad and then get screwed over in CX when they spec something else.

#### Fairness is a voter because a) gateway issue- the judge needs to evaluate the better debater b) controls internal link to other voters

#### Drop the debater to deter future abuse, dta is incoherent

#### No RVIs 1) its illogical you don’t win by proving that you’re fair – logic is a litmus test for args 2) encourages theory baiting where good theory debaters bait the RVI to win 3) creates a chilling effect – aff is uniquely dangerous on theory because they get to read a long counterinterp in the 1ar and then get the 2ar collapse: negs would always be disincentives from reading theory which leads to infinite abuse

#### Use competing interps it creates a race to the top where we set the best norms