“All human beings are born free and equal”: A Black Studies Critique of Human Rights

by

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A Thesis submitted to the Faculty of Graduate Studies of

The University of Manitoba

in partial fulfilment of the requirements of the degree of

MASTER OF HUMAN RIGHTS

Faculty of Law

University of Manitoba

Winnipeg

Abstract

This study provides a critical race analysis of the United Nations Universal Declaration of Human Rights (UDHR) through the lens of Black experiences. It investigates the historical codification of human rights in the UDHR, the assumptions that underpin the widespread institutional and academic celebration of the UDHR, and the critiques of human rights present in specific Black Studies discourses. The study poses two key questions: What insights can we gain from the critiques of human rights articulated in Black Studies? What perspectives does Black Studies bring into awareness about human rights and the work of human rights in the contemporary world order? Ultimately, the study concludes that the rejection of the human rights framework in certain traditions of Black Studies—especially the challenge to accepted notions of universality—exposes the limitations and contradictions of the universal claims made in the UDHR.

Acknowledgements

I would like to thank my advisor Dr. Arthur Chigbo Anyaduba and committee members Dr. Amy Farrell and Dr. Jessica Senehi.

I would like to thank the Social Sciences and Humanities Research Council for providing funding support during my first year of graduate school.

Dedication

I dedicate this thesis to all the Black artists, poets, writers, activists, musicians, thinkers, students, theorists, and philosophers that refuse to accept the imposed status quo.

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Chapter 1

Introduction

Human rights have come to be recognized and accepted, particularly in the West as major political, social, economic, and cultural accomplishments of the twentieth century following the Second World War. Turner (2006) articulates this attitude when he describes "the growth of universal human rights" (p. 6) as "the most significant institutional revolution of the twentieth century" (p. 6) in his attempt to provide a sociology of universal human rights based on "the concepts of human vulnerability and institutional precariousness" (p. 1). Such celebration of human rights is often based on its declared provision of a secular moral and ethical vocabulary for political, social, economic, and cultural actions.

For some proponents, the ascendancy of human rights consciousness has led to improved conditions for historically marginalized peoples and provided an international framework for holding states and other systems of power accountable (Ignatieff, 2001; Tuner, 2006). In 2013, for example, the United Nations (UN) celebrated 20 years of its establishment of the position of High Commissioner for Human Rights in 1993, a unit tasked with giving voice to human rights concerns around the world. In a report titled "Human Rights Achievements," the UN lists several human rights milestones it accomplished "from the establishment and development of a number of human rights mechanisms, such as the Human Rights Council, to events such as the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance" (UNHR, 2013).

Similarly, the Government of Canada recently reiterated its support for the values of human rights and celebrated Canada as a "strong voice for the protection of human rights and the

advancement of democratic values" (Global Affairs Canada, 2024). Similar celebratory attitudes have underpinned other institutional attitudes to human rights, notably in the Canadian context, the Canadian Museum for Human Rights (CMHR), which declares as one of its missions as the first human rights museum in the world to be "solely dedicated to the evolution, celebration and future of human rights" (CMHR, "About Us", n.d.).

However, these institutional celebrations of human rights often contrast with the attitudes of historically oppressed peoples, notably Black and Indigenous peoples, many of whom dismiss and distrust triumphant human rights claims. Their criticisms of human rights claims, particularly in response to persistent oppression and marginalization of people around the world, have generally been dismissed by proponents of human rights who often contend that, despite the flaws in the application of human rights claims, the principles themselves should be regarded as an aspirational ideal (Glendon, 1998; Morsink, 1999). This argument relies on the belief that human rights principles can be divorced from their historical, social, political, and material contexts and realities: a separation of the ideal from the real (Mutua, 2001).

In 2015, at the University of Cape Town in South Africa, a Black student threw feces at the statue of British imperialist and enslaver Cecil John Rhodes, igniting a protest. This protest led to the emergence of the #RhodesMustFall student movement, which aimed to decolonize the university system in South Africa. The movement eventually spread internationally, advocating for similar efforts to decolonize universities worldwide. A critical aspect of the #RhodesMustFall movement is the rejection of human rights principles by Black South African students. They argue that the human rights framework fails to account for the experiences of Black peoples who entered the modern imperial world as enslaved subjects and were considered non-human beings valued only for exploitation (Ahmed, p. 120). Historically, there has been a long-standing

rejection of human rights in Black struggles, some of which have shaped the intellectual movements and traditions of Black Studies that inform this study. This study examines such rejections of human rights in Black struggles.[1]

This study engages with such critiques of the human rights framework as articulated in the #RhodesMustFall student movement. The study offers a critical race analysis of the UN Universal Declaration of Human Rights (UDHR) in relation to the experiences of Black people as articulated in critical and cultural representations. Specifically, it draws on Black Studies to understand the suspicion and rejection of human rights claims in these anti-Black racism discourses. I am guided in this thesis by Joshua Myers' (2023) articulation of Black Study:

> Black Study means that tradition of refusal of the knowledge of the world as it was given to us by those committed to colonial and racial order—and all the ways we still experience it, the many othering practices it generated. It is a refusal of the blessings of liberal humanism and its variants, the philosophy of life and living that is really only about the political same, a violent reanimation of the status quo, the Western conceptions of what has and should always be. (p. 8)

What can we learn from the critiques of human rights claims discernible in Black Studies? What does Black Studies bring into awareness about human rights and the work of human rights in the contemporary world order? In posing these research questions, I aim to examine and underscore some nodal and intersectional points in Black thought that are regularly effaced in human rights discourses, an erasure that haunts not only the principles claimed for

[1] The rejection of human rights is not exclusive to Black struggles. For instance, similar rejections of human rights and state recognition can be observed in Indigenous struggles across North America and beyond, as examined in Glen Coulthard's *Red Skin White Masks* (2014) and Peter Kulchyski's, *Aboriginal Rights Are Not Human Rights* (2013).

human rights discourses as universal but even more so the subject for whom rights are claimed—the human.

In subsequent chapters of the thesis, I discuss human rights and its historical codification in the UDHR, the assumptions for its extensive institutional and academic celebration, and the critiques of human rights discernible in certain Black Studies discourses. The discussions and analysis I offer are further illuminated and elaborated upon through critical readings of the Sierra Leonean-American academic and filmmaker Nikyatu Jusu's 2022 film, *Nanny*. My choice of *Nanny* (2022) is not only because of the film's thematic relevance based on an African immigrant experience in the United States (US) but also because of its intertextual reliance on twentieth-century African anticolonial films, most notably Ousmane Sembene's 1966 film *La Noire De…* (*Black Girl*), that are underpinned with the kinds of critical orientation to human rights present in Black Studies.

My use of the film *Nanny* (2022) in this thesis should be understood as a methodological exercise that allows me to engage the insights of my discussion in a less abstract way by contextualizing them in storytelling and cultural representation. In this way, *Nanny* (2022) provides the opportunity to further contextualize and examine the assumptions of UDHR and the criticisms to it discernible in Black Studies. Throughout, my approaches to the materials of the study involve critical and contextual analysis based on critical Black thought.

The Universal Declaration of Human Rights

The UDHR is considered by some to be the foremost modern human rights document and it is the foundation for all UN treaties and conventions. This non-binding legal instrument was adopted by the UN General Assembly (UNGA) in December 1948 and provides the moral and

ethical grounding for international human rights law (Andreassen, 2009). Since then, it has risen in popularity and become widely recognized globally. According to the UN, the UDHR has been translated into 500 languages making it the most translated document in the world (United Nations, n.d.)

Many consider the UDHR to be among the foremost achievements of the twentieth century including Morsink (1999) who describes the impact of the UDHR and its drafters as follows:

> What they produced has profoundly changed the international landscape, scattering it with human rights protocols, conventions, treaties, and derivative declarations of all kinds. At the end of the twentieth century there is not a single nation, culture, or people that is not in one way or another enmeshed in human rights regimes. (p. x)

Morsink's (1999) declaration that human rights have penetrated all parts of society aligns with the preamble of the UDHR that sought to integrate human rights into "every organ of society" and use "teaching and education to promote respect" for the "rights and freedoms" articulated in the UDHR. Human rights language and discourse have found their way into everyday language and experience. It is not unusual to hear people referring to their "rights" and many struggles against injustice and oppression have incorporated the language of human rights into their campaigns, slogans and activism (Ignatieff, 2001). The preamble of the UDHR created a "we" based on the idea of a "family" while also establishing that rule of law is necessary for rights and security. These celebrations of human rights in institutional and everyday life, at least in Western societies, are mobilized around an understanding of what has come to be understood as human rights ethics.

Human Rights Ethics

The human rights ethics that emerge from the UDHR are rooted in ideals of shared humanity, an aspirational morality based on shared outrage following the Second World War (Morsink,1999). Human rights ethics in the preamble of the UDHR and unite around the ideals of dignity, equality, rule of law, universality, and inalienable rights and undergird the human rights articulated in the UDHR articles that require protection. Said differently, protection, safety, and security for the "human family" are to be found in the moral and ethical framework of human rights, a moral and ethical framework accessible to all by being human and being "born free and equal in dignity and rights" as articulated in Article 1 of the UDHR. This moral and ethical framework is protected by the "rule of law" as outlined in the UDHR preamble and supported by education to strengthen "respect for human rights and fundamental freedoms" and support activities of the "United Nations for the maintenance of peace" as outlined in Article 26 of the UDHR.

The preamble of the UDHR begins with the recognition of the "inherent dignity" and "inalienable rights" of the "human family". Article 1 of the UDHR declares that "all human beings are born free and equal in dignity and rights" and are "endowed with reason and conscience" thereby setting the stage for the remainder of the UDHR's thirty articles that cover anti-discrimination, individual rights, civil and political rights, and social, economic, and cultural rights, all of which are imbued with the human rights ethics outlined in the preamble (Glendon, 1998, Morsink, 1999).

The acknowledgments of the influence and consolidation of human rights ethics highlight what some proponents consider two critical accomplishments of the framework: first, human rights as a catalyst for social and political revolution, and second, the development of a secular

moral vocabulary that has emerged to regulate power. This underlying sense of human rights accomplishments are generally founded on an evolutionary logic that the world's history has been evolving positively based on an unfolding ethical system that the UDHR has codified, formalized, and incidentally further intensified (Glendon, 1998; Ignatieff, 2001; Morsink, 1999; Turner, 2006).

Human Rights as Political and Social Achievements

Human rights as articulated in the UDHR are widely recognized and accepted as major political and social achievements and considered by some to be "part of a wider reordering of the normative order of postwar international relations" (Ignatieff, 2001, p. 6). Ignatieff (2001) states that "rights language" (p. 6) was connected to both anticolonial struggle in European colonies and the Civil Rights Movement in the United States, referring to human rights as the "lingua franca of global moral thought" (p. 53). The UDHR preamble explicitly states that human rights "should be protected by the rule of law" (UDHR, 1948).

Shelton (2020) highlights the connection between human rights, international human rights law, and the rule of law. Shelton's (2020) discussion reveals the focus on international safety and security and the way human rights are positioned as the means through which safety and security can be achieved. In writing about international human rights law, Shelton (2020) notes the connection between dignity and equality as articulated in the UDHR and the ways in which these ethical underpinnings are emphasized in international human rights law. Shelton (2020) notes, "the law emphasizes the shared attributes and inherent nature of human beings" (1.2 Basic Concepts" Dignity and Equality, para. 13). The focus on safety and security and the ethical and moral underpinnings of the UDHR have resulted in widespread celebration and penetration into democratic society (Morsink, 1999).

The position is that the ascendancy and embrace of human rights have reformed global politics and social relations. In this reformist agenda, human rights consciousness and advocacy are credited for structural, social, and political changes that force political systems to be more accountable to the rights of citizens, accountability that is considered by some to be natural in civil and democratic systems. Understood as an instrument for politics and social reformation, the UDHR is hailed by proponents as a crucial determining force able to change the way politics are performed globally.

Human Rights as a Secular Moral and Ethical Vocabulary

The celebration of human rights is often based on what many refer to as the UDHR's secular moral and ethical vocabulary that can be utilized for political, social, economic, and cultural purposes. The secularized moral principles of human rights as articulated in the UDHR and their grounding in the idea of the human, that is, that everyone is entitled to these rights by virtue of being human, are understood as the basis for the universality of their applicability and the declared shared ground from which these rights emerge (Andreassen, 2009; Morsink, 1999). In his discussion of universality and the UDHR, specifically, the ways in which it has been challenged by critics that bring western imperialism into focus, Ignatieff (2001) notes:

> Many traditions, not just Western ones, were represented at the drafting of the Universal Declaration of Human Rights—the Chinese, Middle Eastern Christian, but also Marxist, Hindu, Latin American, Islamic—and the drafting committee members explicitly construed their task not as a simple ratification of Western convictions but as an attempt to define a limited range of moral universals from within their very different religious, political, ethnic, and philosophic backgrounds. (p. 64)

Ignatieff (2001) considers the drafting process of the UDHR and the moral and ethical grounding in the human to support notions of universality; further, the secular nature of the UDHR and absence of any reference to "God" (p. 54) as being inclusive of multiple "political viewpoints" (p. 64) while incorporating multiple cultural perspectives thereby allowing human rights universals to travel far and wide while being accessible to all.

Finally, Ignatieff (2001) argues that the "secular ethics" (p. 88) of human rights "finds strength in its insistence that there are no "sacred" purposes that can ever justify the inhuman use of human beings" (p. 88). The utility of the secular moral and ethical vocabulary of human rights is much celebrated and used in international human rights law, politics and social movements that seek to challenge unjust status quos and the crimes of nation states (Andreassen, 2009; Ignatieff, 2001; Shelton, 2020).

Criticism of Human Rights

There have been sustained criticisms of the UDHR right from the mid-twentieth century when it was declared. Notable early critics include Hannah Arendt (1951) who faulted the UDHR because of its reliance on states to guarantee and protect human rights. The underlying point of the critique is that human rights are the mercy of benevolent power, which is expected to recognize and protect them. In several situations where the state is not benevolent to some rights claims, what happens?

Other criticisms stemmed from the reality of persistent violations of people even in the era of human rights. Andreassen (2009) succinctly summarized the gap between the UDHR aspirations and reality writing, "contemporary human rights violations in all parts of the world demonstrate a prevailing disconnect between the promises of the Declaration and the real world" (The Declaration and Contemporary Human Rights Challenges, para. 2).

Morsink (1999) and Glendon (1998) approached critiques of the UDHR by retreating into the UDHR, that is, by reviewing the drafting process, focusing on the intent of the drafters, and cautioning all to remember that the UDHR articles are interdependent, should be read together and not as Glendon (1998) notes, as "pick-and-choose cafeteria-style" (p. 1153). While both Morsink and Glendon offer extensive reviews of the UDHR drafting process and deliberations via engagement with the UN archive to provide insight into the UDHR drafting process, it nonetheless remains within the process and within the ideals of the UDHR, raising questions related to what is foreclosed in that approach to responding to critiques of the UDHR. While each acknowledges differences between aspirations and reality, Glendon (1998) notes "universal human rights remain a dream" (p. 1174) and Morsink (1999) wrote of the "idealism and excitement that was present in the early years of the UN before realism and cynicism took hold" (p. xiii), Morsink (1999) and Glendon (1998) appear to be focused on proving the intent of the drafters was ethically and morally good and finally, that the secular nature of the UDHR not only supports universalism, but also that it is the very reason it should be defended (Ignatieff, 2001).

Several of these criticisms have pivoted on questions regarding cultural relativism, the pragmatism of realizing human rights by relying on states to behave in accordance with international human rights law, and the extent to which the rights declared in the UDHR can be considered universal, particularly in the context of a multicultural world (Zembylas & Keet, 2019). While incisive, these criticisms appear to accept in principle the ideals articulated in the UDHR; the issues with the UDHR are largely about practicality and political expediency. Some of the criticisms argue the moral and ethical utility and scaffolding of human rights justify the recuperation and reform of human rights. This argumentation is done while simultaneously acknowledging the flawed reality of human rights. How can a violent and inequitable post-

Second World War order produce a universal human rights ideal? The fact that in 1948 when the UDHR was ratified many nations were still colonized and the drafters of the UDHR were agents of different colonial states has not received adequate attention in some of the critiques. Critical questions in Black Studies go beyond these observations and concern questions about the concept of the human, and how the human (with rights) emerged.

Chapter 2

Critical Review

To better understand the motivation of this study, it is useful to provide a critical review of some arguments that shape not only the perspectives on some human rights agendas but also the logics associated with human rights ethics. This chapter, therefore, engages with a few representative perspectives on human rights that give impetus to the patterns of rejection discernible in Black struggles, intellectual traditions, and movements.

"All human beings are born free and equal": Universality and Politics

Article 2 of the UDHR reads:

> Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

In *Human Rights as Politics and Idolatry* (2001), Ignatieff argues that human rights are not simply another mode of European domination but rather a secular moral and ethical language with political utility that is necessary to preserve, protect and promote international safety and security. Ignatieff was a Member of Parliament in Canada and then leader of the official opposition during the period spanning 2006 – 2011. Ignatieff was also a director and professor in the Carr Centre for Human Rights Policy at Harvard University from 2000 - 2005 (Ignatieff, n.d.). While Ignatieff has published extensively on human rights, ethics and politics and is considered by many to be an influential voice in the field of human rights, it is his political experience in addition to his influential writing and speeches that place him in a unique position to comment on human rights politics and practice. Finally, Ignatieff is representative of a reasonable and common sense liberal democratic approach to politics and human rights.

Ignatieff (2001) argues for the necessity of human rights for international safety and security, and he makes this argument by grounding human rights in politics. Ignatieff (2001) argues that human rights morals and ethics are grounded in politics, specifically, that they are a politics and their political utility rests in being tools for the resolution of conflict. According to Ignatieff (2001), grounding human rights in politics could make them less "imperial" (p. 20) and he proposes that this grounding allows human rights to shift from "proclamations" (p. 20) and "eternal verities" (p. 20) to a "discourse for adjudicating conflict" (p. 20).

Perhaps anticipating the challenges with such a proposition, Ignatieff argues that one must accept that "human rights principles themselves conflict" (p. 20) and are not merely "moral trump cards" (p. 20) to resolve political disagreements. Ignatieff positions "human rights talk" (p. 21) in political disputes as reminding "disputants of the moral nature of their claims" (p. 21) and suggests this moral grounding and mutual recognition of rights shifts the terrain of the

political disagreement from being about “right and wrong” (p. 21) to “competing rights” (p. 21) and it is in this shift, that human rights demonstrates its political utility as a politics that involve reconciling “moral ends to concrete situations” (p. 21). Ignatieff (2001) then argues that in situations where resolution and compromise cannot be achieved, protecting human rights become the means for intervention, specifically, “use of force” (p.22). Ignatieff (2001) quickly assures readers that those situations are carefully considered. He insulates discussion of “use of force” (p. 22) with positive and inspirational language of a moral “call to arms” (p. 22) connecting his statement back to the preamble of the UDHR which speaks of tyranny and oppression and the justification for use of force in the UDHR to protect human rights (Ignatieff, 2001).

Ignatieff (2001) begins his defense of human rights universals by acknowledging the “gap” (p. 4) between human rights instruments and political realities by first writing of “moral progress” (p. 4) and referring to “historical experience” (p. 4) to situate modern human rights in a historical line of linear progress and achievement. Ignatieff (2001) defends universalism against “cultural challenge” (p. 48) by arguing that human rights are a universal moral language of right and wrong. Ignatieff maintains that human rights are not about prescribing a good life or telling people how to live in their freedom, they have these freedoms by virtue of being human and human rights provides “defensible rights” (p. 4) which protects their “agency” (p. 4) and reduces the likelihood of being “abused and oppressed” (p. 4). Ignatieff argues that there is no need to apologize for the “moral individualism” (p. 7) of human rights and the focus on the protection of individual rights and that people are free to make whatever decisions they choose, they are protected from regimes that oppress individual decision making and they can exercise agency. In response to criticisms of universality that raise questions pertaining to the role of Western imperial powers during the UDHR drafting process, Ignatieff writes: “the secular ground of the

document is not a sign of European cultural domination so much as a pragmatic common denominator designed to make agreement possible across a range of divergent cultural and political viewpoints" (p. 64). Ignatieff simultaneously argues for the universality of human rights while also acknowledging Western influence and attempts to tame concerns about this influence by focusing on reasonableness, logic, and simplicity, a universalism that is accessible and beneficial to all in a variety of contexts, religions and locations.

Ignatieff focusses discussions of foundational claims of the UDHR to religion and not the constitution of the "human" of human rights. This allows Ignatieff to avoid all discussion of exclusion and marginalization related to the "human" at the center of human rights (Mignolo, 2009). Rather, Ignatieff focuses on foundational debates related to religion, specifically, the ways in which debates concerning the religious foundations of human rights morals can be divisive and finally, proposes that we "forgo these kinds of foundational arguments altogether and seek to build support for human rights on the basis of what such rights actually *do* for human beings" (p. 54). Ignatieff's focus on religion and his arguments that the UDHR benefited from multiple religious traditions allows for a move away from difficult discussions concerning race and racism including the many ways the category of human has been constructed and constituted, and many have been excluded based on race, gender, sexual orientation etc. (Wynter, 2003).

Considering critiques of human rights related to "inconsistency" (p. 19) and "legitimacy" (p. 19) of human rights standards, Ignatieff (2001) surmises that those outside the West took the "political failures" (p. 48) of human rights and questioned the human rights principles themselves. This then leads to what Ignatieff refers to as "cultural consequences" (p. 48):

> Non-Western cultures look at the partial and inconsistent way we enforce and apply human rights principles and conclude that there is something wrong with the principles themselves.

> The political failure, in other words, has cultural consequences. It has led the cultures of the non-Western world to view human rights as nothing more than a justification for Western moral imperialism. (p. 48)

While this framing takes into consideration some of the failures of modern human rights, including inconsistency, Ignatieff uses examples including the Rwandan Genocide, Bosnian Genocide, and UN Peacekeeping missions to underwrite his discussion, and acknowledges how the failures of international intervention to stop these atrocities lead to questions of legitimacy. He does not dwell on the social, political and material realities that give rise to such criticisms and instead focuses on "inconsistent" enforcement and application of human rights, which some argue are shaped by social, political and material realities (Azoulay, 2019; Mutua, 2001).

Ignatieff (2001) activates civil rights struggles in the United States and resistance struggles against imperialism in European colonies in what appears to be an attempt to ground the ideals and ethics of human rights in political realities and struggle, Ignatieff writes "once articulated as international norms, rights language ignited both the colonial revolutions abroad and the civil rights revolution at home" (p. 6). While there is no argument that human rights language was activated in these struggles, Ignatieff's framing reads as not only convenient for championing the utility of human rights, it ignores the long history of resistance and struggles against oppression by African Americans in the United States and peoples the world over resisting European imperialism, further, it reads as an attempt at flattening and simplifying a long line of resistance such as that related to the Haitian Revolution (Trouillot, 2015) by implicitly suggesting that resistance was not as effective prior to the modern human rights regime of treaties, conventions and international law starting with the UDHR in 1948.

The activation of the struggles and resistance of Black Americans is repeated when Ignatieff writes that campaigns to abolish Atlantic slavery were the precursors to modern human rights activism. The discussion of Atlantic slavery does not extend beyond this statement, and it appears that slavery was activated merely as a means of arguing that "moral activism" (p. 10) existed prior to the UDHR and finally, Ignatieff's focus on the "activists" (p. 10), discursively displaces the enslaved people that resisted their conditions and continuously fought for their liberation (Hartman, 2022; Trouillot, 2015). Ignatieff immediately moves onto "the catastrophe of European war and genocide" (p. 11) and writes that those events "gave impetus to the ideal of moral intervention beyond international borders and to the proposition that a network of international activists could shame their own states into intervening in delinquent states in the name of universal values" (p. 11). This activation of slavery and struggles against colonialism to prop up discussions of European centered internationalism, collective horror and morality without additional context, elaboration and attention to the violence, horror, and atrocities of slavery and European imperialism illustrates the ways in which slavery haunts human rights and as argued by Warren (2016), "charting slavery along a temporal scheme distorts the very thing we wish to understand" (p. 66).

Ignatieff (2001) argues for the political utility of human rights and grounds human rights ethics in politics to create space for dialogue and resolving disputes. His argument moves from being about right and wrong to competing rights; however, this utility is severely challenged if the terms of consideration are limited, race and other social and political divisions are erased, minimized, or forced into a narrow space of "dialogue" (p. 36) and "compromise" (p. 20). This leads to an emptying of human rights of any political possibility it may have offered given the challenges that truly contending with race, colonialism and imperialism present.

“All human beings are born free and equal”: Universality and the Body

In *Vulnerability and Human Rights* (2006) Bryan S. Turner grounds the universality of human rights in the human body, specifically the universal vulnerability of the body. Turner’s interdisciplinary sociological study is representative of disciplines outside of law and human rights engaging with human rights ideas and ideals. The interest being whether engagement from outside of human rights yields, generates or creates new modes of thinking and approaches using this declared moral and secular ethical vocabulary while also demonstrating the wide reach of human rights language and ideas. Turner (2006) grounds human rights ethics in the body and argues that human rights are necessary for human security via social and political institutions (Turner, 2006). By grounding human rights in the body, specifically, the vulnerability of the body, Turner (2006) anchors universality to the human body and argues “vulnerability defines our humanity and is presented here as the common basis of human rights” (Turner, 2006, p. 1). Turner’s focus on the body is of interest to this thesis given the historical and present ways in which Black bodies are differentiated from other bodies and subjected to violence (Douglas, 2018; Lethabo King, 2017; Ramírez-D'Oleo, 2023).

Tuner (2006) elaborates arguments from Ignatieff’s *Human Rights as Politics and Idolatry* (2001) related to common ground and experiences stating that his study is “a robust defense of universalism from the perspective of a social ontology of human embodiment” (p. 9). Turner argues that rather than focus on dignity, the focus should be on shared vulnerability as a way of bringing people together under the banner of human rights. For human rights to work and for the ethical underpinnings to be real, human rights can be made real in the body. They can be embodied in what Turner refers to as a “common ontological condition as vulnerable” (p. 9), finally Turner argues for recognition and focus on an embodied shared vulnerability and

encourages a turn away from cultural relativism towards shared experiences rooted in capacities for pain and suffering ultimately arguing that the "need for ontological security provides a strong moral argument against cultural relativism" (p. 9).

By grounding human rights in a universal ethics of shared bodily vulnerability, Turner (2006) appears to be making an inclusive and expansive argument about all that holds people together and how "our vulnerability forces us into social dependency and social connectedness" (p. 10) which leads to why this grounding in shared bodily vulnerability is necessary not just for human rights but societal organization, Turner states: "we need social support and legal protection precisely because we cannot successfully respond to our vulnerability by individual acts undertaken in isolation. We need collective arrangements, including human rights protection" (p. 10). Turner's (2006) argument then moves to the need for security. The shared vulnerability of the body is not just a way to create a "we" and "us" as it relates to human rights, it is also a way of bringing safety and security with human rights being one of the institutions in which "we" are offered collective protection in society. It is this protection along with universal vulnerability that allows for universal applicability. Further, Turner argues that a universality rooted in the vulnerability of the human body "can offer a defense of both the Enlightenment project and sociology against postmodernism, deconstruction, and various forms of pragmatism" (p. 13). By weaving concepts of vulnerability and security together, as problem and solution, Turner creates not only a basis for human rights and universal applicability, he positions human rights and implicitly, rule of law as the solution to the problem of vulnerability. Interestingly, this defense of the Enlightenment is presented as necessary and beneficial and completely avoids the fact that the Enlightenment period is "also the century when the Transatlantic Slave Trade peaked" (Vergès, 2021, p. 28).

Turner (2006) considers sociology and citizenship and the ways in which some are held out of the benefits of citizenship, with a focus on disability. Turner focuses on disability and citizenship in relation to nation i.e. access to services and disability as connected to ability and utility to the state. Turner limits his discussion to disability and does not consider race, i.e. how race impacts access to benefits of citizenship for those that are said to belong to the nation, nor does he consider the ways in which disability intersects with other means of social, political or economic exclusion. Referring to the social construction of disability Turner acknowledges multiple social exclusions and writes, "in terms of the sociology of knowledge, ''disability''—not unlike notions of ''intelligence,'' ''race,'' and ''gender''—has been ''deconstructed'' by social movements employing the politics of the theory of social construction" (p. 100). It appears that Turner is setting the stage to position disability against other social exclusions such as race and gender perhaps as competing rights, perhaps as a means of justifying the focus on disability. Turner elaborates further on the social construction of disability:

> … disabilities are not chosen by people, and hence the disadvantages that attend impairment and disability can never be justified. Theories of equal opportunity have primarily concentrated on the arbitrary nature of gender and race in determining people's life chances" (p.108).

Race and gender are not separate from disability, nor is colonialism and white supremacy (Schalk and Kim, 2020). In writing about the marginalizations and exclusions within disability studies and what they term "feminist-of-color" (p. 31) approaches to disability, Sami Schalk and Jina B. Kim (2020) write: "feminists of color tend to approach disability from within broader concerns among people of color in a racist world, ranging from environmental racism and medical abuse to police brutality and economic exclusion" (p. 32). Schalk and Kim (2020) make

clear in their discussion of the myriad ways in which feminist-of-color writing and theory are marginalized in favor of white and middle-class experiences of disability that are ultimately tied to recognition and incorporation by the state. Turner's attempt at isolating disability from race and gender appears to be a way of avoiding the myriad ways in which citizenship is denied and limited for those deemed undesirable or lacking in utility to the state. Said differently, By positioning citizenship rights against human rights and focusing on disability, Turner is able to bolster his argument about vulnerability and the body, yet this is only possible by discussing a disability that is not differentiated by race and gender and does not acknowledge the ways in which disability is not separate from "broader concerns among people of color in a racist world" (Schalk and Kim, 2020, p. 32).

While Turner ultimately concludes his discussion of disability with the argument that society should "protect those individuals whose lives are the most precarious in order to achieve some fair distribution of resources" (p. 109), he makes this discussion while remaining silent on matters of race and gender. Turner avoids discussion of race and gender and the ways in which disability intersects with race and gender, specifically, disabled people experience racism and sexist oppression and their bodies which are not solely impacted by disability. There is no recognition that there are varied experiences of disability and that race and gender impact disability and have very real social, political and economic impacts.

Turner's discussion of the future focuses on technological innovations that could prolong life and throw into question notions of vulnerability; however, he does not discuss the ways in which racialized bodies broadly and Black bodies specifically has been rendered vulnerable in past, present and future or across time (Karera, 2019; Ramírez-D'Oleo, 2023).

Turner is focused on the body as a way of creating a shared sense of vulnerability. But to do this and support this argument, the body must be forced into an unreal and impossible neutrality. So Turner takes it to the level of ontology and writes of a shared bodily ontology. By focusing on vulnerability, his argument also then creates the need for protection, this is an ideal positioning with the human rights frame as the preamble of the UDHR begins from an ethics and morality based on shared vulnerability and a desire for international safety and security following the Second World War (Andreassen, 2009). So, it is this shared vulnerability that then necessitates the need for protection and human rights and by extension the rule of law or perhaps human rights become the rule of law and this focus on vulnerability supports that position. Focusing on ontology in this limited way appears to be creating a "we" that requires silence not only on ontological differences but the ways in which ontology has been used to oppress and exclude (Warren, 2016) throwing into question the possibility of the shared ontology upon which Turner situates his argument. By focusing on universal bodily vulnerability and limiting discussions of socially constructed difference to narrow notions of disability thereby avoiding discussion of differential vulnerability–that occurs along racial, gendered, and geographic lines–the focus stays on universality and an aspirational idea of oneness that does not exist.

Turner argues for universality based on a shared vulnerability that has human rights grounded in the body and human rights as the solution to this vulnerability. In terms of morals and human rights and the body, Turner (2006) writes, "the moral issue behind human rights is, in essence, an issue of recognition—how to get human beings to recognize other human beings as creatures worthy of their respect, concern, and care" (p.41). Turner focuses on creating a "we" that is based on shared bodily vulnerability which requires much silencing to argue the existence of this "we". Arguing for a "we", specifically, that "we" are all the same when the material,

social and political realities do not reflect such realities and remaining silent on all the ways in which these social and political realities are created and maintained by systems and structures of domination (hooks, 2010) undermines the very notion of the "we", Turner argues for.

"All human beings are born free and equal": Racism, Imperialism, and Colonialism

What is the place of race and racism in the UDHR? How does the UDHR position race in relation to rights? What does the UDHR say about imperialism given its member states held colonies in 1948? Race is mentioned in Article 2 and Article 16 of the UDHR. Article 2 of the UDHR is known as the non-discrimination article and Glendon (1998) writes that the "anti-discrimination principle underlines the principle of universality" (p. 1165). Article 2 states that everyone is "entitled to all the rights and freedoms set forth in this Declaration" and includes race along with other prohibited grounds of discrimination. Article 16 of the UDHR focuses on marriage and equality between spouses (Andreassen, 2009) and proclaims marriage freedom "without any limitation due to race". While race is mentioned in Article 2 and Article 16 of the UDHR, it is not isolated for individual focus or critique in these articles and is presented alongside other forms of discrimination and as noted by Glendon (1998), the non-discrimination focus of Article 2 is put in service to emphasize universality.

In 1948 some of the nation state members of UN had colonies (Morsink, 2001). Morsink (2001) refers to this as "the problem of the colonies" (p. 97) and writes that after much deliberation and argument at the drafting table, reference to the colonies can be located in the UDHR preamble and in Article 2 where reference is made to "non-self governing" countries or territories, Morsink (2001) writes this was a "euphemism for colonies" (p. 3). The preamble wording focuses on striving for "universal and effective recognition and observance" of the UDHR and Article 2 focuses on non-discrimination and includes "international status of the

country or territory" that a person belongs to "whether it be independent, trust, non-self-governing or under any other limitation of sovereignty". Imperialism is not explicitly critiqued or named in the UDHR and reference made in the preamble and Article 2 to "territories" and "non-self governing" countries is once again put into service to emphasize universality (Glendon, 1998) without getting into specifics thereby avoiding any focus on the silence about imperialism necessary to maintain notions of universality.

The aspirational nature of human rights as articulated by the UDHR is widespread, powerful, and mainstreamed in language and sustainability projects; however, critiques of universalism and silence on matters of imperialism and colonialism have raised concerning questions regarding the universal utility and accessibility of human rights. In a seminal 2001 article in the Harvard International Law Journal, legal scholar Makau Mutua both challenged and unsettled commonly held notions of human rights aspirations and ideals. In writing about universality and imperialism, Mutua (2001) stated:

> The human rights corpus … falls within the historical continuum of the Eurocentric colonial project… because of this cultural and historical context, the human rights movement's basic claim of universality is undermined. Instead, a historical understanding of the struggle for human dignity should locate the impetus of a universal conception of human rights in those societies *subjected* to European tyranny and imperialism. (pp. 204-205)

By engaging in a critique of commonly unquestioned human rights aspirations and ideals, Mutua (2001) not only highlighted the contradictions inherent in human rights but created a space to engage with them. Further, Mutua's (2001) critique brought imperialism into the frame and questioned the location of the creation of human rights and the events that brought them into

necessity reminding readers that human rights were not created due to shared outrage and horror over slavery or colonialism of the Americas gesturing towards a shared tolerance to such atrocity and violence. Mutua (2001) challenged convenient ideas about universality in human rights and forced a confrontation with the reality that while colonialism has touched us all, the ways in which it touched people and places were and are experienced differently (Manjapra, 2020) and these differences are reflected in the international human rights system (Mutua, 2001).

Departing from the use of euphemisms that disguise and minimize "problems" related to imperialism, Azoulay (2019) critiques the modern human rights regime and the silence on imperialism. Azoulay (2019) writes:

> In such a discourse, rights are abstracted from centuries of imperial injustice and articulated in self-contained verbal statements, as if they were ready made units applicable anywhere and anytime, regardless of the material conditions of violence and inequality under which they should be introduced and exercised, and no matter to whom they are addressed. (Performing Rights, para. 1)

In her discussion of rights, Azoulay (2019) departs from the UDHR articulation of rights and universals and centers imperialism in an articulation of "protocols for a shared world" (Azoulay, 2019, Performing Rights, para. 1) not only expanding the frame but creating a different space to theorize and question the international order.

In 1952, a petition titled, *We Charge Genocide: The Crime of Government Against the Negro People*, was submitted to the UN General Assembly. The document was a significant submission of evidence of the experiences of African Americans in the United States, specifically, details and evidence were provided regarding lynching, the violent conditions

African Americans were forced to contend with and the systematic and institutionalized white supremacy that insisted on maintaining these conditions (James, 2023). This document did not go further in the UN and several interlocutors including Raphael Lemkin, the individual that coined the genocide concept and advocated its adoption in international law weighed in later and indicated that the standard of genocide was not met (Samudzi, 2020).

In the *Paradox of Recognition: Genocide and Colonialism* (2020), Zoé Samudzi argues the "necessary existence of an anti-Black exception to acknowledgements of genocide" (p. 1) by examining the German response to the 1904-1908 Ovaherero and Nama genocide and Raphael Lemkin's response to the petition, *We Charge Genocide: The Crime of Government Against the Negro People* submitted to the UN by the Civil Rights Congress in 1952. By examining these responses–conditional recognition and conditional reparations in the case of the 1904-1908 Ovaherero and Nama genocide and a refusal to consider the racial terror and lynching of Black Americans in the United States as genocide–Samudzi reveals the ways in which the horrors of African colonialism and slavery in the United States are minimized by a collusion of law, "Eurocentric framing of genocide" and finally, a refusal to take seriously the suffering of Black Africans and the zones of non-being they occupy via the mechanisms of social death (Samudzi, 2020).

In their critiques of human rights universals, both Azoulay (2019) and Mutua (2001) name and theorize from the space of imperial violence. Rather than deny or minimize this violence, they name it in their critiques of human rights universals which not only clarify the root and location of the violence but also create space for the emergence of other ways that do not insist on universality that requires a silencing of imperial history and present. Samudzi's (2020) discussion and focus on colonial genocide and anti-Blackness brings into awareness the

Eurocentric framing of genocide. Her discussion of the rejection of the Civil Rights Congress' *We Charge Genocide* petition brings attention to the persistent refusal to take seriously the suffering of Black Africans. As James (2023) highlights, despite the refusal to consider the *We Charge Genocide* petition, it "*remains relevant seventy years after its publication and dissemination throughout the globe* [emphasis added] as a condemnation of anti-Black human rights violations and subjugations" (p. 204).

Human rights as articulated in the UDHR which are based on the shared disbelief and horror of the Second World War leaves a critique of imperialism, colonial genocide, and Atlantic slavery outside of the frame (Azoulay, 2019; Mutua, 2001; Samudzi, 2020) meaning that the "freedoms" articulated in the UDHR are not tied to liberation from imperial conditions and atrocities and rather "freedom" is achievable by an internalization of human rights ethics and rule of law that do not engage with those atrocities which were not sufficient to prompt the moral outrage and conscience that was the impetus of the UDHR (Mutua, 2001).

The lack of engagement with imperialism and the horrors of colonial genocide in the UDHR and much of the admirative literature has raised questions regarding universality. Specifically, the people and places affected by imperialism and colonial genocide question their ability to exercise rights under this regime. A rights-based regime that does not engage with their histories and how those histories affect the present. The utility of the modern human rights regime and ethical principles as articulated in the UDHR have come to be questioned; specifically, whether this foreclosure of discussions on imperialism and racism works to depoliticize human rights making it a politically empty vocabulary and merely a re-articulation of the western imperial order (Azoulay, 2019; Mutua, 2001). In addition to these criticisms, a central element in the rejection of the human rights framework in Black struggles and Black

thought is the question of the human and the human imbued with rights, an important theme taken up in the following chapters.

Chapter 3

Human Rights and the Haunt of Slavery: A Black Studies Critique

This chapter offers a robust critique of human rights ethics by drawing on a sustained and committed body of Black philosophical and critical theory including Black Feminist Hauntology, Black critical theory, and Black poetics. As noted by Saidiya Hartman (2022) "the fragile 'as if equal' of liberal discourse inadequately contends with the history of racial subjection and enslavement, since the texture of freedom is laden with the vestiges of slavery" (p. 202). The goal is largely to call attention to a tradition of Black theorizations that not only provide powerful critiques of the "human" and narratives of linear progress but also illustrate why the marginalization and erasure of race and the history and present of Black enslavement makes human rights as articulated in the UDHR ill equipped as a viable political and ethical instrument; said differently "every time it confronted the question of Blacks and Africa, reason found itself ruined and emptied, turning constantly in on itself" (Mbembe, 2017, p. 12).

The work of Black Studies scholars, philosophers, poets, and artists pose questions that center Black life and Black being and the ways they proceed in answering what Wilderson (2010) refers to as "a Black ensemble of questions" (p. 304). These questions depart from the dominant, imposed intellectual order. Their work illuminates and challenges the systems and processes that structure orders of knowledge, ways of living and being in an anti-Black world. They challenge linear conceptions of time to create spaces for engagement that are not bound by narratives of linear progress and universalism. Their engagements with literature, form, and the

official archives reveal how much of what is commonly accepted as natural is constructed, how much Western structures of knowledge have been imposed, how slavery was not simply a labour issue, but an existential violence rooted in anti-Blackness (Brand, 2001; Hartman, 2022; Sharpe, 2016; Spillers, 1987; Wilderson, 2010).

Nannies Across Cinematic Time Space

In 2022, the feature film *Nanny* premiered to critical acclaim at the Sundance Film Festival where it won the Grand Jury Prize (Jusu, n.d.). The film, written and directed by Nikyatu Jusu, a Sierra Leonean-American professor at George Mason University, tells the story of Aisha, a young Senegalese woman in the US who works as a nanny for a white couple in New York City. Aisha's journey towards reuniting with her young son, who remains in Senegal, drives the narrative, taking viewers on a claustrophobic and suffocating experience alongside her. The film addresses significant human rights concerns, including migration, race, labour conditions, gender and sexual violence, and family reunification.

From a human rights perspective, *Nanny* (2022) seeks to illuminate the challenges faced by African immigrants, particularly women, in the West. It is often assumed that such artistic representations serve as ethical witnesses against injustice, educating and raising awareness about the violations experienced by African immigrants. Moreover, these cultural works are often viewed as essential tools for mobilizing global consciousness to recognize and address the suffering of marginalized individuals.

However, insights from Black Studies suggest that *Nanny* (2022) resists simplistic interpretations as a straightforward human rights advocacy piece. The film critiques the fundamental assumptions of human rights thinking, which are often rooted in a moral

universalism that prioritizes a human subject with rights. Its focus on the role of the nanny highlights the historical legacy of Black enslavement that persists today. This choice echoes Ousmane Sembene's classic anticolonial critique in *La Noire De…* (1966), which is based on a true story and follows Diouana Gomis, a young Senegalese woman who commits suicide in Antibes, France, as a form of resistance against her treatment by her French employers. In Sembene's *La Noire De…* (1966), Diouana is brought to France by a white couple to care for their three children. Once in France, she is forced to perform various domestic tasks without pay, and subjected to fetishization, racial and sexual violence, and starvation. Ultimately, Diouana's refusal to accept the conditions culminates in her tragic suicide, which critics interpret as an act of resistance (Calhoun, 2020).

In Jusu's *Nanny* (2022), Aisha, like Diouana, is subject to violence and exploitation in the home of Amy and Adam, while grappling with a tragedy in her personal life that she has yet to fully comprehend. Both films highlight the enduring legacy of slavery that continues to shape the characters' realities. Whether set in 1950s France, as depicted in Sembene's film, or in the twenty-first-century US presented in *Nanny* (2022), slavery emerges as a haunting presence, illustrating how the very concept of the human has been constructed in opposition to Blackness. To be human, therefore, is to be non-Black, anti-Black, to subsist on Blackness, to depend on the exploitation of Blackness (Hartman, 2022; Ramírez-D'Oleo, 2023; Sharpe, 2016; Spillers, 1987; Wilderson, 2010).

The Haunt of Slavery

In *Slavery and Social Death* (1985), Orlando Patterson unsettled commonly held notions that slavery was simply a labour issue. Patterson (1985) demonstrates that slavery was social death, a totalizing form of domination and oppression, and a "special form of human parasitism"

(p. 14). Patterson's analysis had significant implications for the study and analysis of slavery, including ontological formations. Here is Wilderson (2010), elaborating on Patterson's analysis arguing that slavery is ontological exclusion:

> 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 Humanity establishes, maintains, and renews its coherence, its corporeal integrity; *if the Slave is, to borrow from Patterson, generally dishonored, perpetually open to gratuitous violence, and void of kinship structure* [emphasis added], that is, having no relations that need be recognized, a being outside of relationality, then our analysis cannot be approached through the rubric of gains or reversals in struggles with the state and civil society. (p. 11)

Wilderson's (2010) analysis focuses on the "realm of the structural" (p. 269) and argues that slavery is a relational dynamic between the master and the slave and those dynamics are examined structurally rather than socially or culturally. Wilderson (2010) argues that the antagonism between the human and the slave is an unresolvable structural antagonism and moves the focus from conflict to antagonism writing, "structures of ontological suffering stand in antagonistic, rather then conflictual, relation to one another (despite the fact that antagonists themselves may not be aware of the ontological position from which they speak)" (p. 5). Wilderson's (2010) structural critique of relational dynamics in the US brings into awareness the ways in which demands to resolve "issues" that are often presented as conflicts are structural in nature, embedded in democratic formations and perpetuate inequality while purporting to do otherwise (Wilderson, 2010). Warren (2016) elaborates Wilderson's discussion of political participation and ontology writing,

> One must at least prove the ontological discontinuity of slavery before we can talk about political agency. Historical movement and change do not translate into eradication and resolution. Change and movement are mere metaphysical fantasies, not synonyms for ontological coherence. (p. 63)

Patterson (1985), Wilderson (2010), and Warren (2016) bring into focus the necessity of focusing on structural elements, refusing simple narratives of linear progress and advancement, and finally the importance of challenging notions of shared ontological formation in the realm of the structural which poses serious challenges to notions of universality.

In her seminal work, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (2022), Saidiya Hartman brings the "violence of the law" (p. 141) into awareness as she takes readers through US court cases that illustrate the lack of consent enslaved Black people had endured during slavery, specifically, the legal dimensions of non-being. Enslaved Black people were legally positioned as being unable to be harmed in the eyes of the law as they were designated as property. Hartman (2022) illustrates this institutionalized violence through the case of Celia, an enslaved woman that was found guilty of murdering her enslaver. Celia acted in self-defence against an enslaver who continually raped her starting on the date he purchased her (Hartman, 2022). Due to the legal construction and maintenance of enslaved people as property Celia was not considered to have been harmed. Further, Hartman (2022) brings into focus the ways violence against enslaved Black people was denied, obscured and otherwise minimized. Minimizing also took place when it came to the routine and normalized violence of enslavers against enslaved Black people. Courts and legal arguments had no concern for the pain and suffering of the enslaved and only considered harm in relation to being property, the destruction of property and these rulings were in favour of the enslaver, not

the enslaved (Hartman, 2022) demonstrating the ways in "which various mechanisms of sexual domination—the sanction and disavowal of rape, the negation of kinship, and the legal invalidation of slave marriage—act in concert" (pp. 146-147). Although Celia's enslaver was continually violating her, the law did not consider those violations a crime and Celia had no legal standing. The court took no consideration of her pain and suffering, for being racialized as a Black African, turned into fungible flesh (Spillers, 1987) whose uses were limitless, and which ultimately existed for parasitic extraction and exploitation (Spillers, 1987). According to the law, the rule of law, she could not be harmed, she was property.

Attempts to find analogies in suffering under patriarchal domination fall apart when typical disciplinary divides are set aside. In *A Decolonial Feminism* (2021), Françoise Vergès (2021) reminds us that while white women did not have the same access and rights as white propertied men, *"they did have the right to own human beings*" [emphasis added] (Vergès, 2021. p. 30). In *They Were Her Property: White Women as Slave Owners in the American South* (2019), Stephanie E. Jones-Rogers details many of the ways in which white women and families engaged in relations and inheritances by using enslaved people as property, specifically, the ways in which white women participated in slavery as masters and owners and "not only witnessed the most brutal features of slavery, they took part in them, profited from them, and defended them" (p. xi). The minimization of the violence of slavery and the many ways in which slavery benefited and funded relations among enslavers, their families and society assists in understanding Hartman's comment that "the white bourgeois family can actually live with murder in order to reconstitute its domesticity" (Hartman & Wilderson, 2003). The silence around the violence of slavery and its contemporary manifestations haunts declarations of universality and equality.

These conditions of enslavement, including their gendered dynamics, particularly of white women participating actively as enslavers, are part of what Jusu's *Nanny* (2022), as well as in Sembene's *La Noire De… (1966)*, bring into awareness. Just as Madame in *La Noire De…* (1966) is responsible for Diouana's hire (read: purchase) from what Sembene cinematically portrays as a slave market, so too Amy is responsible for Aisha's hire. While these films illuminate the active roles that white women have played as enslavers (Jones-Rogers, 2019), what comes into awareness from these portrayals are the ways that the construction of the human, mobilized in this case around whiteness, gains coherence by enacting violence on those that have been racialized as Black (Hartman, 2022; Wilderson, 2010).

The Weaponization of Time

Time has been used as a container, a way of creating distance and as a way of insisting that the past is past, denying all the ways the past shapes the present. What is being forgotten and why? What happens when one challenges conceptions of time, memory and place? What comes into awareness? Time, specifically notions of linear progress contribute to ideas about the supremacy of human rights and triumphant human rights narratives that champion a progressive, linear move away from the past and a present held together by human rights and the "rule of law" (Ignatieff, 2001; Morsink, 1999). In *Silencing the Past: Power and the Production of History* (2015), an interrogation of power and the creation of historical narratives, Michel-Rolph Trouillot argues that history is a function of power and that history and narratives are not neutral. Said differently, the telling of history, specifically who tells history is a function of power and the most powerful (Trouillot, 2015). Trouillot (2015) is ever clear on power and narrative writing:

> We are never as steeped in history as when we pretend not to be, but if we stop pretending we may gain in understanding what we lose in false innocence. Naiveté is

> often an excuse for those who exercise power. For those upon whom that power is exercised, naiveté is always a mistake. (p. xxiii)

What good is universality and declarations of togetherness if, when the time comes, the conventions, tools, and processes are inadequate? The making of more laws in the hopes that they will be adequate and sufficient over time, in the future keeps people locked in a cycle of hope that never seems to materialize for some people broadly and Black people specifically (Warren, 2021).

Time is represented in visuals and is also used to hold ideas, people and images in place (Anyaduba, 2023; Brown, 2014; Sharpe, 2016). Time can be used as a hold (Sharpe, 2016), it demands forgetting a past that has not past (Brand, 2001; Sharpe, 2016) and it is used to create a fiction that slavery times have ended rather than having been merely re-articulated in and by social and political structures (Hartman, 2022; Saleh-Hanna, 2015, Warren, 2016; Wilderson, 2010). Time has been used as a tool to create distance from difficult events, challenging or shameful histories, and as a divider between events and their present-day manifestations and legacies (Saleh-Hanna, 2015; Warren, 2016). In writing about temporal domination and slavery Warren (2016) draws attention to the ways in which time has been weaponized and positioned Black people as outside of time writing,

> Perhaps this is why Frederick Douglass's master admonished him not to think about a future, for his time belonged to his master. The captive lives outside of metaphysical time, without a future, without an accessible past (natal alienation), and in a present overwhelmed with the immediacy of bodily pain, psychic torment, and routine humiliation. *Time is terror.* (p. 60)

The use of time to segment, disguise, deny and minimize the atrocities of Atlantic Slavery and colonization of the Americans necessitates the need to interrogate the past and present, recognize the limits of conceptions of linear time, and finally, examine how time has been used to create distance where there is often no distance but rather re-articulations of violence and oppression (Hartman, 2022, Saleh-Hanna, 2015; Warren, 2016) which undermine notions of universality and linear progress suggesting violent histories are in the past.

Black Feminist Hauntology

Viviane Saleh-Hanna's (2015) Black Feminist Hauntology theoretical framework attends to historical processes and their contemporary manifestations and shapes thereby allowing the past to come into conversation with the present by refusing the segmentations and divisions of time that disguise and obscure continuous violence and oppression. Saleh-Hanna (2015) defines Black Feminist Hauntology as "an anti-colonial analysis of time that captures the expanding and repetitive nature of structural violence, a process whereby we begin to locate a language to speak about the actual, not just symbolic or theorized violence that is racial colonialism" (para. 20). Conceptualizations of ghosts and haunting illuminate violence and assist with understanding apparent distortions which may not be distortions at all but rather challenges to narratives of linear time and movement towards continuous and never-ending progress (Saleh-Hanna, 2015).

Saleh-Hanna draws on Walter R. Jacob's definition of a sociological ghost as part of her conceptualization of Black Feminist Hauntology. Jacobs (2007, as cited in Saleh-Hanna, 2015) states:

> …a 'sociological ghost,' the form by which something is lost, barely visible, or seemingly not there to our supposedly well-trained eyes, makes itself known or apparent

> to us, in its own way, of course. The way of the ghost is haunting, and haunting is a very particular way of knowing what has happened or is happening. … the forces in our lives that we usually try to ignore or forget, but never totally leave us alone. If we deliberately investigate these ghosts, though, we can learn to take control over troubling memories; we may turn destructive haunting into something more enabling. (p. 7).

Black Feminist Hauntology attends to the changing nature of oppression by "exorcizing" and naming oppressions as they morph and change over time thus ensuring oppression is not obscured or denied (Saleh-Hanna, 2015); specifically, Black Feminist Hauntology helps to reveal systems, structures, and actors in various social positions, and more specifically, their transformations over time and role in maintaining systems and structures of domination (Saleh-Hanna, 2015). Further, Black Feminist Hauntology helps to illuminate repeating cycles of violence, often under the banner of change, reform, and reform disguised by the language and ideas of abolition and liberation (Saleh-Hanna, 2015).

When time is not absent from thinking and theorizing or put into service to support notions of linear progress, the ways in which oppressions transform and mutate over time can be attended to. Hartman (2007) writes about these transformations and the present-day realities of slavery noting, "this is the afterlife of slavery – skewed life chances, limited access to health and education, premature death, incarceration, and impoverishment" (p. 6). The links become clear, the segmentations fall away and oppressions are no longer divorced from their foundations. Saleh-Hanna's Black feminist hauntological shapeshifting methods bring the ghosts of the past into conversation with the present and allow what Hartman (2022) refers to as the "state-sanctioned and extra juridical violence essential to the making of a 'servile race' and disposable population" (p. 11) to come into awareness. Attending to time and the ways in which it has been

used to segment and separate challenges claims that we know all there is to be known and that we should simply move on or get over (Warren, 2016) and creates space for engagements that bring the totalizing nature of oppressions into awareness. Linear notions of time that support narratives of progress, insist that change has occurred and otherwise draw attention away from atrocity or control the means with which that so-called past is engaged with. Black Feminist Hauntology attends to how time has been utilized and weaponized to maintain power and challenge the supposedly settled notions of taken for granted things such as the "human", progress, and change.

Focusing on time challenges claims of not knowing or the "innocence" often claimed when people are confronted with the truth of violent histories and their present-day implications. Saleh-Hanna (2015) utilizes Cariou's (2006) "willed forgetfulness" in her conception of Black Feminist Hauntology writing that it "opens a window to envision and articulate the overbearing silence –reimagined as enforced or willed forgetfulness surrounding colonial violence and its racializing ways. Willed forgetfulness is rooted within dominant colonizing cultures and thus impacts all that live within them" (para. 18). Saleh-Hanna's (2015) Black Feminist Hauntology provides a means of engaging with the past and present that refuses the traps of time, specifically the silences and distances necessary to avoid violent pasts and a means through which to liberate oneself "from a condition of inability to locate the heart and soul of the problem" (Saleh-Hanna, 2015 para. 21) thus creating space to theorize the totality of violence and question notions of universality predicated on unity, safety and security and rule of law.

The rejection of linear notions of time is effectively illustrated in Jusu's *Nanny* (2022). In echoing Sembene's *La Noire De…* (1966), *Nanny* (2022) collapses Aisha's condition of abjection in the twenty-first-century US with the mid-twentieth-century colonial dehumanization of

Diouana in France, while also placing Aisha within a long lineage of enslaved African women who have faced similar struggles throughout the enduring *longue durée* of slavery. The ocean represents the source of Aisha's nightmares, serving as a manifestation of her traumatic history. It symbolizes the foundational trauma of Atlantic Slavery and stands as a site of ontological negation for African peoples (Sharpe, 2016). From a Black Studies perspective, the film's central question is not about how to secure rights for Aisha amid her exploitation. Rather, it asks how to dismantle the human for which Aisha is negated and exploited, allowing for the emergence of something new.

Questioning and Challenging Time

In *Black Time: Slavery, Metaphysics and the Logic of Wellness* (2016) and *Abandoning Time: Black Nihilism and the Democratic Imagination* (2021), Calvin Warren subjects time to inspection. What does time hold steady and what does it exclude and why is that exclusion an extraction of Black energy and Black being? Warren challenges us to think outside of supposedly settled notions of time and question uncritical acceptance of notions such as "time heals everything" and Black political participation as the route to safety and change. In putting time under investigation and challenging commonly held beliefs, Warren (2016) creates and facilitates a consideration of our relationships with time and how, for Black people, it is extractive, deceptive and exclusionary. Warren (2016) is not calling for new conceptions of time, warren is calling for a "de-idealizing" of time, noting, "thinking in black time forces a reconsideration of the critical categories of analysis—history, linearity, progress, movement, and ethics" (p. 62). Warren's (2016) theorizing opens time, challenges time, and creates space for understandings outside of linear narratives typically steeped in progress.

Warren (2016) engages with slavery to draw attention to the ways in which time was used as a tool of domination and ontological exclusion against Black people, explaining thus:

> Not only did slave masters seize the captive's body as property, but they also seized his or her time, reifying it into a commodity of exchange and an instrument of torment. The "peculiar institution" of slavery could not exist without the violent metaphysical process of objectifying time; this process situated the black being outside the horizon of time that defines the human and into the indistinct zone of temporality—time without duration. We can call this black time. If we think about the way in which time orients the human existentially—birthdays, astrological signs, age, maturation, and so on—we see that time provides *meaning* for the human. So to seize time is, in essence, to seize the existential condition itself—to control the production and semiotics of meaning. Black beings are disoriented within metaphysical time; *they are temporally homeless*. This disorientation provides the necessary existential ground to discipline, punish, and destroy black bodies. Temporal domination is a vicious metaphysical enterprise; its aim is to break down the active will diurnally. (p. 61)

Attempts to temporalize the violence of slavery into narratives of linear progress and achievement and social and political gains silence the violence of slavery and the ways in which that violence has changed shape and continues to haunt the present (Warren, 2016). Warren (2016) brings attention to the ways in which the study and analysis of slavery is often met with "impatience" and a demand to "get over" and it is in questioning this stance, this language that Warren (2016) highlights that "many proponents of getting over describe slavery using a restricted temporal grammar" (p. 55) which only acts to hold slavery in place and restrict it to the past not only temporally holding it in place, but suggesting that it can be held in place at all. The

positioning of those that cannot "get over" (Warren, 2019, p. 66) slavery as unwell is reminiscent of enslaved Black people seeking liberation from plantations being labelled and categorized as being mentally ill with a debunked condition called drapetomania (Walcott, 2021). It appears that for some it is simply more convenient to position those that deviate from accepted narratives and behaviors that draw attention to inconvenient topics that implicate entire systems and structures as being the problem. The problem is then pathologized and medicalized and the person is "unwell". In bringing the widespread nature and implications of slavery into focus, Warren (2016) argues that slavery is,

> an antiblack episteme that enables the distinctions between human and nonhuman, citizen and property, self-possession and dispossession to have meaning. Thus, slavery exceeds the frame of the historical event that we are so eager to get over and indeed provides the condition of possibility for the liberal grammar of humanism that undergirds the compulsion to get over in the first place. (p. 56)

Liberal democracy and humanism are tightly sutured to political participation and political participation is often presented as the solution to society's ills and as a means through which change can be achieved, stability can be found, and representation can be realized (Ignatieff, 2001). In discussing time and political participation, Warren (2021) writes that "democracy tethers the imagination to time, since democracy is an elaborate schematization, instrumentalization, and defense of time" (p. 247). Warren (2021) goes on to argue that time is an alibi and explanation for the failures of democracy, specifically the failures of democracy and political participation to bring about much hoped for change. In writing of the specific stakes of political participation for Black people, Warren (2021) asks if democracy can:

> finally bring an end to anti-Black violence and Black suffering? Or is the knowledge of democracy's fabulousness enough to sustain Blacks through police terrorism, environmental racism, re-enslavement through incarceration, and food/housing insecurity and discrimination? I would suggest that what makes such creative synthesis possible is an unacknowledged dependence on time. (p. 248)

Warren's (2016, 2021) questioning of time brings into awareness the ways in which time acts as a hold for Black people, demands hope and political participation that merely reforms rather than abolishes oppression and, finally, brings to bear the ways in which a refusal to "get over" (Warren, 2016, p. 66) and "move" on (Warren, 2016, p. 55) can be met with violent demands for adherence to narratives of linear progress and achievement despite the mountains of evidence and experience that challenge such narratives and undermine universality.

The Future

What happens when everyone on the planet is experiencing a global emergency, what power dynamics are revealed or perhaps concealed? What happens to the "we" and "us" that is fundamental for notions of universality? The global climate crisis has led to many Anthropocene and speculative ecological books and articles being written in response to this global emergency (Karera, 2019; Ramírez-D'Oleo, 2023). Much of the writing in this register focuses on "new" forms of relationality and ways of living and being with the "end of the world" fast approaching (Karera, 2019; Ramírez-D'Oleo, 2023). Karera (2019) and Ramírez-D'Oleo (2023) have masterfully and meticulously detailed the ways in which Anthropocene and ecological writings, focused on the end of the world and the global climate emergency lack ethics when it comes to Black people (Karera, 2019) and the new worlds and new relations described in many of these

writings require the destruction of Black life to create and sustain themselves (Ramírez-D'Oleo, 2023). In other words, the continuation of antiblackness.

In *This Will Not Be Generative* (2023), Dixa Ramírez-D'Oleo's close readings reveal how many ecological writings that claim an inclusive future for "all" require "blackness as compost" to generate new worlds for everyone else. Ramírez-D'Oleo's readings reveal the ways in which language is manipulated to present solutions to current problems and avoid attending to how the logics of white supremacy and antiblackness contribute to the crisis they purport to be forwarding solutions toward, rather, it is more convenient to avoid inconvenient parts of the past and present and instead focus on an imagined future (Ramírez-D'Oleo, 2023). A future that turns out to be exclusionary while claiming inclusivity and also maintaining a white presence that Ramírez-D'Oleo refers to as a white indigène, a presence that often involves forced relations to create the illusion of Indigeneity on lands that have been colonized (Ramírez-D'Oleo, 2023).

Ramírez-D'Oleo's (2023) book illustrates how the "we" that is activated in many of the ecological writings is not inclusive of all. While the emergency is present for everyone, there remains no interrogation of the differential outcomes and impacts of the climate emergency as well as distancing from the ways in which white supremacy and antiblackness contributed to the emergencies with Ramírez-D'Oleo noting "all humans have not existed, lived, or died on a flat horizontal plane" (p. 13). Ramírez-D'Oleo's careful readings revealed what she terms "blackness as compost", specifically, "a semiotics that seems to be liberatory and generative for an inclusive "we" remains reliant on a grammar of suffering and destruction for those in the black(ened) position" (p. 7). Challenging the ethics claimed by many Anthropocene writers by drawing attention to the persistent tendency to treat Africa and Africans as disposable, Karera (2019)

illustrates how the language of care and ontological relationality can act as a disguise for a lack of ethics writing,

> Africa—and therefore blackness—remains the disposable trash container of the world par excellence; a case of instrumentalization in its most primitive execution. Under these conditions, one is thus pressed to inquire how can a global ethics of care be possible when fundamental questions of racial culpability are eluded in the name of a shortsighted conception of "becoming" and an aggrandized notion of ontological relationality—both of which remain unwilling to sustain engagements with their violent racial foundations. (p. 44)

Karera (2019) makes clear in her critique of Anthropocene that a language of care and ethics that refuses to engage with violent racial histories and present-day manifestations can only reproduce the very circumstances that were foundational to the crisis they are attempting to write their way out of.

Ramírez-D'Oleo's (2023) close and careful readings identified the procedure many of these writings followed when claiming an inclusive "we" that was not inclusive and was also parasitic on Black life. First, theory and thought emerging from specific Black experience is vacated of its specificity, a non-Black writer inserts themselves into the "we" and "us" of the work that is rooted and emerges from Black experiences. After vacating the work of its specificity and inserting themselves into the "we", Blackness is excluded from the "we" that it turns out to not be inclusive and in fact requires Black death. This horror was masked and disguised in the speculative language of tentacles and barnacles to cover racial antagonisms that were unaccounted for and unaddressed but present nonetheless throughout the writings (Ramírez-D'Oleo, 2023). Lethabo King (2017) highlights the importance of questioning

formations of the human and posthuman writing, “the field of Black studies has consistently made the liberal human an object of study and scrutiny, particularly the nefarious manner in which it violently produces Black existence as other than and at times non-human” (p. 166). Lethabo King (2017) highlights the importance of theorizing formations of the human and the ways in which these formations are contingent on violence against and parasitic on Black life.

These works are important reminders to be attentive to a “we” that forgoes consideration and attentiveness to the historical and present conditions that lead to systemic differential treatment or as Ruth Wilson Gilmore (2007) writes, “state-sanctioned or extralegal production and exploitation of group-differentiated vulnerability to premature death” (p. 28). The urgency of current times from climate catastrophe to questions related to the efficacy of democracy have resulted in an increase in ecological writings that Ramírez-D'Oleo reminded us must be truly attentive to how we arrived at these emergencies. Ramírez-D'Oleo’s (2023) meticulous reading and tracing of the discourses influenced by the major writers in this register reveal the discursive strategies, flowery words and a "we" that is not inclusive and a rearticulated white supremacy (Ramírez-D'Oleo, 2023). Ramírez-D'Oleo (2023) carefully demonstrates that rushing past critique and insulating these rushed ideas from critique by focusing on the urgency of the moment can and has led to solutions that perpetuate and reproduce the same logics that contributed to and led to the moment of crisis and urgency. In writing about the lack of interrogation of racial antagonism in Anthropocene writings, Karera (2019) notes, “it is still possible to talk of an earth crisis, of the danger the whole planet faces, and avoid the racial implications of this crisis” (p.38). Universality is shown to be inadequate, conditional and non-existent for some when confronted with the disguised violence Ramírez-D'Oleo’s (2023) work reveals to be present in writings that purport to be about a “better” future.

This chapter drew on critical literatures in Black Studies to offer a robust critique of the universal claims of human rights ethics that "have foreclosed proper political framings by promoting a moral philosophy unequipped to face the racial histories of our current [imperialist/colonial] predicament" (Karera, 2019, p. 32). Engagement with these works reveal that slavery haunts the conceptions, assumptions and practices of human rights and call attention to the conceptual and representational limits of the human rights framework and these limits are evident even as the works engaged with are not arguing for representation or expansion within the human rights frame. Finally, the chapter argued that the universality of human rights ethics as defined in the UDHR have ignored anti-black racism and the historical/contemporary conditions of Black enslavement.

Chapter 4

Human Rights and Film

The impact of cultural productions such as film to human rights cannot be understated and this importance is recognized and harnessed by the foremost institution of modern human rights, the UN. The UN Creative Community Outreach Initiative (CCOI) is a department of the UN dedicated to working with film, television, and content creators and collaborates with film and television productions to "cast light on pressing global issues" ("What We Do," n.d.). In *Watching Human Rights: The 101 Best Films*, Gibney (2013) offers the following definition for human rights film: "a "human rights film" is simply a film that brings forward issues that relate to human rights. This can be done directly or indirectly" (p. 14). Tascón (2015) more directly states, "There is no such thing as a human rights film" (p. 203). Along with the recognition that there is no specific template or prescription for a human rights film, the focus on film and human

rights is expanding; from the Human Rights Watch Film Festival (Tascón, 2012) to the Canadian Museum for Human Rights (CMHR) hosting film screenings (CMHR, "Human Rights Through Film: Twice Colonized", n.d.) to various human rights film festivals around the world, there is a growing recognition of the role of film in human rights, specifically, the ways in which films assist in understanding human rights in the realm of everyday experiences (Tascón, 2012).

Vulnerability, Surveillance, and Space

To understand the regime of surveillance that Aisha, the protagonist in *Nanny* (2022) is subject to and the implications of this surveillance, one begins with the work of Simone Browne in *Dark Matters: On the Surveillance of Blackness* (2015). Browne's work assists in identifying the myriad ways in which Black people have been controlled and subjected to surveillance. While this has shifted over time, these practices and technologies are rooted in slavery and remain about control, containment, exploitation, and extraction along the lines of race (Browne, 2015). In discussing technology and social control, Browne (2015) calls attention to the ways in which space and time impact surveillance writing:

> How things get ordered racially by way of surveillance depends on space and time and is subject to change, but most often upholds negating strategies that first accompanied European colonial expansion and transatlantic slavery that sought to structure social relations and institutions in ways that privilege whiteness. Racializing surveillance is not static or only applied to particular human groupings, but it does rely on certain techniques in order to reify boundaries along racial lines, and, in so doing, it reifies race. (p. 17)

The use of technology to uphold racial divisions and control space brings into awareness the widespread implications of such technologies and practices. The normalization of surveillance

technologies often declared to be for safety and security such as those employed at airports and border crossings are the more spectacular and visible surveillance technologies; however, surveillance and the processes of control and containment can be found in everyday processes and interactions in both private and public spaces (Browne, 2015).

In *Demonic Grounds*, McKittrick (2006) attends to the ways in which space and place are marked by social constructions and processes. McKittrick (2006) theorizes within the space created by considering Black women's geographies alongside "geographies of domination" (McKittrick, 2006, p.x). This consideration of how domination marks space and bodies, specifically the bodies of Black women, brings historical and contemporary forms of violence towards Black women into focus. McKittrick (2006) reminds us that "our present landscape is both haunted and developed by old and new hierarchies of humanness" (2006, p. xvii). And Manjapra (2020) highlights the totality of coloniality, writing "because colonialism works in and through bodies and bodily spaces, it has no clear endpoint, no natural limit, no threshold marking its conclusion with a treaty, conference, or declaration" (p. 213). McKittrick and Manjapra's research helps make visible the ways in which surveillance, movement, and oppression are present in both bodies and spaces.

The residential building that Aisha works in has surveillance in both communal and private areas. Aisha quickly learns that a camera has been placed in the bedroom of the child that she is a nanny for, Rose. During an argument with her employer Amy related to unpaid wages, Aisha is told that she is being watched while outside of the home and at the park with Rose when Amy states "it is a small community, people talk" (Jusu, 2022, 1:08:29). The argument ends with demands being placed on Aisha for additional working hours and while a back and forth ensues

with Aisha initially declining, she agrees to the additional hours on condition of being paid in advance and the arrears for the overtime she has already worked.

Although it may appear that Aisha has access to workplace bargaining for the resolution of conflicts; her seeming negotiation might be gloss over the matrix of surveillance and security she exists within and the very reason she is forced to tolerate such conditions: she needs the wages to pay for her son's care and travel. The viewer also witnesses the expansion of surveillance within the employer's home following the confrontation with Amy when Aisha notices a camera in the kitchen along with a note that has detailed instructions on how to spend her time at work including the amount of time that should be spent on French lessons (40 minutes). The argument occurs well into Aisha's employment as a nanny for Rose, by then many French lessons had occurred, Rose is responding to Aisha in French and most interestingly of all, Rose is speaking French to Aisha during the argument with Amy. However, Amy feels it necessary to specify how much time should be spent on the French lessons. This suggests Aisha has no control over her time, that it is always subject to the surveillance and control of her employer, Amy. Further, the viewer has come to understand by this point in the film that Aisha's employers set rules and don't necessarily follow them. Given the timing of this note and the introduction of a camera in the kitchen, it reads as a distraction and expansion of control with no basis in safety or security for Rose or Aisha.

Despite the presence of cameras in the areas that Aisha works as a nanny, she is still sexually assaulted by Adam, Amy's spouse. The cameras in the home are in Rose's bedroom and in the kitchen, perhaps because those are the spaces that Aisha is expected to work in suggesting only Aisha is subject to surveillance. There is no camera in the area that Aisha is assaulted revealing that the presence of the cameras in the employer's home was about regulating and

monitoring Aisha's actions and not about her safety or security. That the violence that Aisha experiences in her workplace remains uncaptured suggests both a false and exclusionary regime of safety and security. Of note, Adam threatens Aisha with losing her employment should Amy find out about the assault, suggesting things could get complicated for Aisha.

Both of Aisha's employers, Amy and Adam engage in violence against Aisha, yet it takes different forms revealing the gendered nature of oppression while also reflecting their different social positions. Amy appears to have wanted a friend, confidant, someone to watch her spouse and her child and teach her child French. Adam appears to have wanted someone to complain about his spouse to, a person to enact his sexual predations on and to take over the caretaking of his child when he, Aisha and Rose meet a female friend of his during a dinner outing. The apparently endless demands placed on Aisha along with the structural constraints that necessitated her having to "work" for Amy and Adam complicate the ability for Aisha to extricate herself from the dynamic while being reminiscent of the endless use of the enslaved Black body (Hartman, 2022; Spillers, 1987) and the parasitic relations that characterize Ramírez-D'Oleo's (2023) "blackness as compost", the taking of life for the sustenance of others. Choice becomes an illusion and while a regime of rights may be present, they appear largely inaccessible. Francoise Vergès (2022) highlights the importance of not responding to violence with more violence in the form of state expansion. Specifically, Vergès challenges responses to feminist critiques of structural violence being met with measures that allege to be about safety and security but are ultimately about expanding the carceral state apparatus and do not actually respond to the ways in which systems and structures give rise to and sustain violence against women and femmes.

Motherhood and Childhood

Article 25 (2) of the UDHR declares that motherhood and childhood are "entitled to special care and assistance". How is motherhood impacted by space and location? To understand the multiple experiences of motherhood and childhood represented in *Nanny* (2022), one turns to Françoise Vergès' *The Wombs of Women* (2020). Vergès' study of the differential treatment of women on Réunion Island–an overseas territory of France–and mainland France brings the racialized contradictions and differential treatment into awareness. While abortion was illegal in both France and Réunion Island in the 1970s, French doctors performed unauthorized abortions and sterilizations on Réunionese women, in many cases the women believed they were going in for routine medical care (Vergès, 2020). Vergès' (2020) study refuses simple explanations and draws connections between this 1970s scandal and "processes of gender, class, and racial inequality in the territories that emerged from France's slave-based colonial empire" (p. 3). Vergès (2020) further connects the politicization of wombs to racial capitalism and accumulation in the United States, writing "the work of female *enslaved breeders* [emphasis added] thus became essential to the expansion and wealth of the United States" (p. 53). At issue is the "capitalization" of wombs, the differential treatment and construction of overpopulation on Réunion Island and white, French women being encouraged to have children on mainland France. The differential treatment, contradictions, and experiences were marked by race and nation and undermine notions of universality, and the entitlement of "special care and assistance" declared in article 25(2) of the UDHR.

Aisha, the protagonist in *Nanny* (2022) works as a nanny for Amy, a mother with one child that has job outside of the home. Let us now consider how Aisha's work as a nanny for Amy enables Amy to work and have a career outside of the domestic home setting. Put

differently, Amy's right to have a family and right to work (UDHR article 23) and participate in a capitalist economy can only be realized by relying on the labour, energy, and life of another woman, in this case a Senegalese nanny (Vergès, 2021). Further, this relation is predicated on Aisha taking over Amy's caretaking responsibilities, not the abolishment of a system and structure of gendered domination that necessitates the need for people gendered as women to perform these tasks (Vergès, 2021). While Amy and Aisha are both mothers, Aisha has to work for Amy and take over the caretaking of Amy's child and has been separated from her own child meaning her child has a childhood "marked by the absence of their mother" (Sharpe, 2010, p. 170) suggesting a lack of universal "special care and assistance". If these rights can only be realized by the denial or prohibition of the rights of others, what does this tell us? The who and the where are relevant. Under the banner of "we", only one of them is able to both access and realize her rights and those rights can only be realized by preventing another from accessing theirs.

During an early scene in the film, Amy asks Aisha to work overnight so that she can watch the child, Rose while Amy has a party for Adam. The film then leads into scenes showing preparations for the party including a pregnant housekeeper vacuuming and Aisha caring for Rose. The differences in experiences of mothering taking place in this residential home are evident in these scenes as it becomes clear that Amy requires the labour, lives, and energy of those other racialized women, more specifically, Amy offloads her mothering responsibilities onto these other women opening questions not only about the gendered and sexist domination of patriarchal systems of relations but how victims of sexist oppression can also participate in sexist oppression (hooks, 2010). Of note, both Amy and Adam–in separate scenes–are surprised to find out that Aisha is a mother. This information is not previously withheld; nobody asked.

Innocence

Nanny (2022) illustrates the ways in which Amy and Adam use the language of “we”, compliments and innocence to disguise and distract from their extraction and exploitation of Aisha. In a scene that opens with Aisha waiting for Amy or Adam to return home so she can call and care for her own child, the film illustrates how Aisha’s time and life are of little concern for Amy. Amy comes home late, 8:00 pm, offers a tired apology and promises to “text next time" (Jusu, 2022, 11:27), suggesting that Aisha's time is constantly available to Amy to be instrumentalized. There appears to be no concern that Aisha may have places to go or things to do or both. Amy then asks about Rose’s behavior and when Aisha confirms there are no issues, Amy replies that Rose “is so relaxed with you” (Jusu, 2022, 11:34). After this exchange, Amy asks Aisha if receipts are kept for expenses incurred, responding with "you are amazing" (Jusu, 2022, 11:40) when Aisha confirms that receipts are kept. It appears that Amy may have been looking for something that Aisha has done “wrong” to alleviate the feelings of guilt that may be present due to her coming home late. Following her declaration that Aisha is "amazing", Amy asks for Aisha to do an overnight shift with Rose the following day and references a payment amount that was lower than initially agreed to. When Aisha brings this to her attention Amy appears to be momentarily uncomfortable but ultimately agrees to the amount she initially agreed to.

This pattern of compliments and demands is illustrated in another scene where Aisha is at a restaurant for dinner with Adam and Rose. Adam asks what Aisha did prior to working for his family and Aisha explains that she worked as a teacher. Adam tells Aisha that she is “a wonderful teacher, you’re clearly very smart Aisha” (Jusu, 2022, 29:05) and then leans in and flirtatiously says “*I* can tell you’re not going to be with *us* for very long, *as much as I would like to keep you*”

(Jusu, 2022, 29:09). Aisha does not respond to this. Aisha then carefully brings up the pay issues she has been experiencing. Adam appears concerned and offers to speak with Amy and keep Aisha out of it, yet his delivery suggests a lack of interest in administrative matters. Aisha gets more direct and asks if Adam could take over payment responsibilities to address the pay issue, Adam hesitates before saying "I would like to but…" (Jusu, 2022, 29:55) before being interrupted by a female friend and closing the conversation by telling Aisha he would speak to Amy. This exchange is curious in that moments before Adam speaks of wanting to "keep" Aisha, yet his lack of engagement with serious pay concerns, pay for work performed which is the basis of the relationship, suggests a more personal reason for wanting to "keep" Aisha that has nothing to do with work and rather hints at a sexual desire being expressed in the statement.

This pattern of disregard for Aisha's time continues in a scene that opens once again with Aisha waiting for Amy or Adam to return home so she can leave the residence. She has missed the opportunity to speak with her own child due to being stuck at Amy and Adam's home working. It turns out that Adam was supposed to return home to relieve Aisha but does not. Amy appears tired and frazzled upon her return home and Aisha quietly waits to be paid. Amy speaks at Aisha and makes the following declarations "*I* got a promotion, *I* mean, not a raise yet, are *you* happy for *me*", "*I* mean *you* know what it is like being a woman, *overseeing* everything", and "but *we'll* never be one of the guys will *we*?" (Jusu, 2022, 52:39) Aisha remains silent. After a long pause, Amy goes into her designer handbag to get cash to pay Aisha and as she does this she makes a demand of Aisha saying "do me a favor, watch Adam". (Jusu, 2022, 53:39) Aisha does not respond to Amy's demand and says goodnight as she walks towards the door. Given the structure of the scene and overall relations displayed throughout the film, this scene reads as an attempt to extract more labour, more time, and more life from Aisha. Amy's attempt to speak in

the register of "we" only after Aisha's silence in response to her demand for comfort and reassurance is curious. What is this "we" that Amy speaks? Where does it stem from and what does it disguise? (Ramírez-D'Oleo, 2023).

Let us turn to another experience of false innocence and demands for relief to bring the falseness of Amy's "we" into focus. In *Ordinary Notes* (2023), Christina Sharpe writes about a forced encounter she had at the National Memorial for Peace and Justice in Montgomery, Alabama. Sharpe (2023) describes an unknown woman speaking at her or, "in the direction of a Black person" (p. 57) and how she did not respond to this person. Sharpe (2023) is ever clarifying when she writes,

> I do not reply to her because with her apology, she tries to hand me her sorrow and whatever else she is carrying, to super-add her burden to my own. It is not mine to bear. I have my own sorrows (p. 57).

The encounter that Sharpe (2023) shares along with her clarity that the person speaking at her is focused on their own feelings and experience and is simply seeking a person to unburden upon helps illuminate the exchange between Aisha and Amy. That Amy begins with demands for affective and emotional comfort prior to paying Aisha for hours worked is telling. The delay suggests an unspoken demand lurking underneath Amy's "we" that reads as more of an "*I* need comfort and reassurance" rather than the "*we* are working women" sentiment she is expressing on the surface. It reads as a demand for Aisha to soothe and relieve her from the demands of work and sexist oppression at the workplace. Further, Amy refuses to acknowledge that she herself is an employer, that she employs Aisha and that her actions as an employer, her home as a workplace have serious implications for Aisha. The "we" that Amy activates does not include Aisha even as it is uttered (Sharpe, 2016).

To further add to this discussion of false innocence that Aisha experiences with Amy and Adam in *Nanny* (2022), I turn now to bell hooks. In *Teaching Critical Thinking*, hooks (2010) recounts an experience while teaching a class that involved a white student insisting that the domestic worker in her household was a part of the family. Here is hooks relaying the exchange:

> I was lecturing on Toni Morrison's *The Bluest Eye* and referenced the history of black women working as domestics in white households. A white female student raised her hand to disagree when I suggested that often black maids served white families with apparent good cheer and then returned to segregated communities venting their rage and anger at the ways they were exploited. The student kept repeatedly stating that their maid was a beloved member of the family, who loved them as though they were her own. I questioned her about whether she had ever talked with the maid about her feelings, about race, about love, and her answer was no. I then suggested that it was unlikely that she knew what the maid was really feeling. The student cried. She accused me of being racist and seeing racism everywhere. Taking time to clarify my position deflected attention from the work at hand. (pp. 99-100)

The exchange shared by hooks helps illuminate the absurdity of the "we" that Amy uses as a cover for her demands for emotional and other demands from Aisha. The only interest Amy has shown Aisha throughout the film is related to what she can extract from her and she buries this under the language of "we" and compliments. Even when the relationship deteriorates, Amy continues to make demands for more work, hours and flexibility from Aisha. The exchange hooks had in the classroom also highlights how people that speak of racism in ways that challenge notions of "family" and "love" are met with violence and accusations of being

divisive, distracting from the work or task at hand because some people refuse to have their notions of universality questioned or challenged.

Photographs and The Dysgraphia

What does it mean to have outsiders come in and document your life via photographs and film and share those images in ways that you cannot imagine? Is consent possible in these types of dynamics? What do the individuals in the visual materials want and is this ever considered? To understand the negotiations of power in the photographs that Aisha encounters and interacts with in *Nanny* (2022), one turns to *In the Wake: On Blackness and Being* (2016) by Christina Sharpe. Sharpe (2016) writes of the Dysgraphia as the "rapid, deliberate, repetitive, and wide circulation on television and social media of Black social, material, and psychic death" (p. 21). Sharpe (2016) brings the violence associated with the normalized circulation of images and brings the political implications into awareness writing:

> We know that, as far as images of Black people are concerned, in their circulation they often don't, in fact, do the imaging work that we expect of them. … This is true even though and when we find images of Black suffering in various publics framed in and as calls to action or calls to feel with and for. Most often these images function as a hail to the non Black person in the Althusserian sense. That is, these images work to confirm the status, location, and already held opinions within dominant ideology about those exhibitions of spectacular Black bodies whose meanings then remain unchanged. We have been reminded by Hartman and many others that the repetition of the visual, discursive, state, and other quotidian and extraordinary cruel and unusual violences enacted on Black people does not lead to a cessation of violence, nor does it, across or within communities, lead primarily to sympathy or something like empathy. Such

> repetitions often work to solidify and make continuous the colonial project of violence. (pp. 116-117)

Blackness is not released, even in death. The dysgraphia continually circulates and moves images of atrocity and anti-Black violence, and images are often activated when they can be of use to someone, or something often divorced from the context of the image (Anyaduba, 2023).

In an early scene in *Nanny* (2022), Aisha is with Adam in his office, a glass room filled with pictures of Black and brown adults and children in various states. There are two prominent pictures, one of a Black boy standing in front of fire and the other is of a woman crying. In describing the picture of the boy standing in front of fire Adam adopts a posture of rational and logical distance saying, “he was like Malcolm X they hung on his every word” (Jusu, 2022, 19:41) and “he's dead now” (Jusu, 2022, 19:47). It is unclear whether Adam is showing his "trophies" or showcasing his skills as a photographer, or both?

During a scene showing Aisha playing hide and seek with Rose, she enters Amy’s bedroom and encounters a wall of photographs of Amy and Rose. It appears that the photographs are being used to narrate a story of mothering that is not real. The viewer witnesses a performance of motherhood in the pictures with lots of lovely photographs showing kisses, hugs and smiles which stands in stark contrast to the reality that even while home, Amy requires Aisha to be close by. In a scene that takes place in the child Rose’s bedroom, Amy silently looks on as Aisha and her child are happily playing and there appears to be a feeling of longing that passes over her. Aisha, quietly notices and gently steps back and attempts to leave the room; Amy, now on the bed hugging Rose says “don’t go far” (Jusu, 2022, 14:59) suggesting a worry, or anxiety related to parenting Rose.

Aisha's use of photographs reads very differently from Amy's. To begin, Aisha brings a photo of her son Lamine with her to the bedroom that she sleeps in at Amy and Adam's residence when she does overnight caregiving. The photo is of Aisha's son Lamine as an infant and it is just the child in the photo. The baby is wearing a gold bracelet, is propped up on his elbows and appears to be looking lovingly at the person taking the photo. The photograph also reflects Aisha's distance and separation from her child. There is no performance in this photograph of a parent and child relationship; it reflects the separation and distance from their children Black people have experienced as a result of slavery and state sanctioned separations via the carceral caring systems such as child protection agencies and the prison system (Sharpe, 2016; Vergès 2021).

Outside and in Excess of the Frame of Rights, Representation, and Inclusion

This thesis has focused on universality and the UDHR, specifically the moral and ethical vocabulary that declares itself to be universally applicable. In writing about meaning and language Stuart Hall (1997) notes that "meaning is produced within language […] Meaning is produced by the practice, the 'work' of representation" (p. 28). This final section will focus on imagining and theorizing that creates openings for new ways of living and being, new ways to think, and new approaches to language. Dionne Brand (2017) asks, "what might language be capable of if we think in and with it differently?" (p. 64) and move away from demands to "attend to linearity or the representative as is often the burden of narrative" (p. 64). Refusing incorporation into a violent status quo, Christina Sharpe (2016) writes:

> I am not interested in rescuing Black being(s) for the category of the "Human," misunderstood as "Man," or for the languages of development. Both of those languages and the material conditions that they re/produce continue to produce our fast and slow

> deaths. I am interested in ways of seeing and imagining responses to the terror visited on Black life and the ways we inhabit it, are inhabited by it, and refuse it. I am interested in the ways we live in and despite that terror (p. 116).

Sharpe's (2016) words highlight many of the ways in which the oft celebrated language of development and human rights can be violent and her words encourage a critical orientation not only to these words, but a consideration of how they are instrumentalized and who benefits from such instrumentalization. Sharpe's (2016) use of words, specifically, the opening and splitting of words to reveal the ability to hold and know the multiple meanings and think through what she terms the orthography of the wake offers as a way of seeing, a way of learning, a way of reading, a way of hearing all of the ways in which this world is marked by anti-Blackness and the non-being of Blackness. And it is from this opening that one can understand what she terms the "climate of antiblackness" (p. 106).

Brand (2017) attends not only to how words are used, but the forms and ways in which words are used. Narrative and poetry. Brand's (2017) work reveals the limits of narrative and the hypocrisies that narrative strategies employ. Brand (2017) highlights "poetry's capacities for overwriting of the narratives of non/being in the diaspora" (p. 59) and the interruption of self-mutilation that comes with narrative (Brand, 2017). Brand's (2017) focus on language, specifically, her attentiveness to the possibilities of poetry is challenging and reshaping form or perhaps, creating new forms and creating new ways of thinking and being that are not rooted in carceral logics (Brand, 2001). Brand (2001) attends to the challenges of imagining from a carceral hold and highlights the ways in which the carceral has entered the imagination and dreams thereby limiting what is possible (Brand, 2001). By drawing attention to the ways in which Black people in the diaspora try to narrate ourselves out of oppression using the same

tools and language of oppression, Brand (2017) highlights the need to attend to how language is used, how form is used, for without this attention one only creates new spaces with old oppressions (Brand, 2017).

Sharpe (2016) and Brand (2017) demonstrate an attentiveness to language and how it builds worlds and both shapes and forms consciousness. Their work not only challenges anti-Black formations and worlds, but also colonial notions of time, language, and form and their work has created other ways of thinking, feeling, and being.

M. NourbeSe Philip's (2014) work subverts typical form and challenges the way one understands and reads English. Her work brings into awareness how limiting and oppressive the English language is and how it has been used as a tool of empire and expansion (2014). Philip (2014) writes of the contradiction between not having language and having to express the weight of an experience in a forced language that is "…etymologically hostile and expressive of the non-being of the African" (p. 81). English cannot hold the ideas and the feelings of many experiences and Africans in the diaspora have adjusted English, and as Philips (2014) notes, these adjustments have been conveyed as bad or "broken" without ever attending to the linguicide that preceded (Philip, 2014). In writing about form and language while attending to the historical violence and present-day manifestations of that violence, Philip (2014) notes, "The challenge is to re-create the images behind these words so that the words are being used newly" (p. 86). Philip (2014) challenges one to consider what one means when one speaks and to truly contend with the violence that is the English language.

Conclusion

Human rights and their moral and ethical vocabulary underpinned by notions of rule of law are so entrenched in some discourses that they become the solution when issues can no longer be ignored. When safety and security issues arise, human rights become the vehicle for fantasies of safety and security. This is occasioned by the push for treaties and conventions to resolve issues of the day, for example, the climate crisis. A world order that has shown itself to be lacking in many ways then becomes occasion for expansion of the rule of law and while this is by no means a critique of those seeking refuge and safety from often horrific conditions, it is curious that their salvation appears to rely on hope that a treaty or convention will resolve their issues.

The aspirational nature of universality in the UDHR, underpinned by its self-declared moral and ethical grounding allows for feel good speeches, targets, and goals and then when extreme events occur, the contradictions and at times, hypocrisy are revealed which inevitably leads to questions of function during less extreme periods or during periods of so-called calm. Dwelling in the space of contradiction and exclusion opens space to reflect on questions related to how colonization, neocolonialism and the legacies and "afterlife of slavery" (Hartman, p.6, 2022) function to create and continuously reproduce inequalities and oppressions.

Critiques of universalism and silence on matters of imperialism and colonialism have raised concerning questions regarding the universal utility and accessibility of human rights. The engagement with Black Studies to offer a critique of the UDHR brings into awareness the ways in which the ethical vocabulary of human rights cannot account for what Wilderson (2010) refers to as "Blackness's grammar of suffering (accumulation and fungibility or the status of being non-Human)" (p. 37). Black Studies critiques question fundamental assumptions of human rights

thinking, which are often rooted in a moral universalism that prioritizes a human subject with rights. The silence around the violence of slavery and its contemporary manifestations haunts declarations of universality and equality.

The Black Studies critique of the UDHR illuminates and challenges the systems and processes that structure orders of knowledge, ways of living and being in an anti-Black world. Black Studies engagements challenge linear conceptions of time to create spaces for engagement that are not bound by narratives of linear progress and universalism. The use of time to segment, disguise, deny and minimize the atrocities of Atlantic Slavery and colonization of the Americas necessitates the need to interrogate the past and present, recognize the limits of conceptions of linear time, which undermine notions of universality and linear progress suggesting violent histories are in the past. Warren's (2016, 2021) questioning of time brings into awareness the ways in which time acts as a hold for Black people, demands hope and political participation that merely reforms rather than abolishes oppression and, finally, brings to bear the ways in which a refusal to move past can be met with violent demands for adherence to narratives of linear progress and achievement despite the mountains of evidence and experience that challenge such narratives and undermine notions of universality.

Engagement with Black Studies reveal that slavery haunts the conceptions, assumptions and practices of human rights and call attention to the conceptual and representational limits of the human rights framework and these limits are evident even as the works engaged with are not arguing for representation or expansion within the human rights frame. Attempts to temporalize the violence of slavery into narratives of linear progress, achievement, and social and political gains silence the violence of slavery and the ways in which that violence has changed shape and continues to haunt the present (Warren, 2016).

The refusal of Black Studies to accept what has been constructed as natural and universal and instead question, critique, and find new ways creates space to think, live, and exist otherwise helps to reveal the limits and impossibility of the universality declared in the UDHR. Lastly, Black Studies creates the space to understand the social, material, political and structural realities that bring the impossibility of universality into awareness.

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