



WORKS

under the 13th amendment's "punishment for a crime" clause. For if the legality of slavery rest on being punishment for a crime, Blackness itself is a crime, has already been constituted as a crime, and is the symbolic indication of future crime, making it perpetually eligible for enslavement under the law. Emancipation could not change the precedent at its core, which understands the emancipated Black person as runaway merchandise, assumes Black deviancy, and requires Black discipline and containment. Today the law underwrites all instances of police brutality, mass incarceration, and the extrajudicial killing of Black people. "Law and order" is a synonym for waging state violence against Black people.

Likewise, the positionality of Blackness makes it almost impossible to appeal to the law as a form of justice or legal restitution. Countless examples of failed attempts at justice through legal channels confirm that Black injury cannot be seen by the justice system, and does not register as injury in the eyes of the law. In fact, to deliver justice to Black people is actually counterintuitive to the project of the law, which is always, the containment of Blackness. As Calvin Warren explains:

The Law recognizes the black only in its destruction, and this destruction is required for legal intelligibility. Thus, something like black redress is outside of the law's jurisdiction to the extent that the aim of redress is restorative, and restoring black being is not only impossible but antithetical to the law's aim

Two Black revolutionary formations become important to analyze here for their markedly different approaches to the law and its relevance to Black struggle. The early years of the Black Panther Party saw the law as a tool that could be used to push Black revolution forward. The first armed demonstrations organized by the Party constantly reference the Second Amendment right to bear arms. New members of the Party were encouraged to read Mao's Red Book and the United States Constitution. Huey P Newton personally studied the law fervently and for all of the loud and bombastic declarations made at the armed demonstrations, a great effort was made to keep them squarely within the bounds of the law.

What the Party did not foresee is that when the law could not perform its function to contain and regulate Blackness, the law could be changed. Months after the 1967 Panther demonstration at the California Capitol, the Mulford Act was passed effectively banning the open carry of loaded weapons. As police repression increased, amounting later to shootouts, raids, and assassinations of key BPP leaders, it became clear that legality did not matter when Black revolutionaries pose a threat to the white power structure. The systematic attack on the Black Panther Party forced Newton and many others to dial back on armed demonstrations.

