Comments on Judith Butler's Tanner Lectures

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Most philosophers struggle with pursuing highly abstract philosophical concerns in a world riven with concrete injustice. Butler is one of the great philosophers of our time. Her work provides hope that one can square a particularly vexing circle. She is remarkably inspiring, and it's amazing to be able to discuss these central philosophical topics with her.

In Frederick Douglass's 1852 address, "What to the Slave is the Fourth of July?", he writes:

> Must I undertake to prove that the slave is a man? That point is conceded already. Nobody doubts it. The slaveholders themselves acknowledge it in the enactment of laws for their government. They acknowledge it when they punish disobedience on the part of the slave. There are seventy-two crimes in the State of Virginia, which, if committed by a black man, (no matter how ignorant he be), subject him to the punishment of death; while only two of the same crimes will subject a white man to the like punishment. What is this but the acknowledgement that the slave is a moral, intellectual and responsible being? The manhood of the slave is conceded.

Douglass here describes the "racial phantasms that inform the demographic valuations of who is grievable". Secondly, via his descriptions of the laws of the State of Virginia, he is describing the "practice of violence". These laws, in Butler's words, "[function] not only as a potential defense, but as the effective moralization of murder."

Is the solution to replace these laws by other laws, more just laws? Butler writes, "I have no doubt that better law is obligatory." But Butler rejects that the solution will be found entirely in a set of perfectly just laws. Even if the laws are perfectly just, if the underlying society has a malformed ethic, an ethic of violence, the laws will be *interpreted* or *applied* in a way that undermines the justness of those laws.

["As the judge interprets the law—and sentencing is the pronunciation of the interpretation that the judge arrives at—the judge acts to initiate and give justification for a punishment that then involves the police and prison guard who restrain, hurt, render helpless, kill, or fatally abandon the prisoner. So the speech act is not separate from those other acts.", p. 14].

Vesla Weaver, Michelle Alexander, and Naomi Murakawa argue that mass incarceration is due to the racist *application* of a post civil rights "color blind" legal framework. The result of a racist application of apparently "color blind" laws is a racist legal system. But the laws themselves are "color blind", and so appear to give full moral justification to their application. It follows that dissent or rebellion against the legal framework will appear to be "violent". And so the very people who suffer from the racist application of

these laws will be deemed to the ones engaged in unjust racist violence, as they object to supposedly color blind laws. As Butler points out, in such a situation, critique comes to be regarded as a form of extra-legal violence. If there is pervasive racist application of color blind law, then those who challenge it, "however non-violent", will be regarded as engaging in an extra-legal form of violence.

I think that propaganda in liberal democracy regularly takes the form of good liberal ideals together with bad application, the result of which runs counter to those very ideals. The result, in Butler's apt phrase, is a "paranoid logic".

Butler's solution is the adoption of a *practice of non-violence*. A practice of non-violence allows us to see common social bonds. Laws may stay the same, but outcomes differ, due to the recognition of common social bonds. Such practices allow us to see beyond cognitive biases due to group identities, and recognize a common social bond (it is a lack of just such a bond that we began with Douglass decrying). As Lisa Rivera has argued, this occurred in Goodridge v. Mass Department of Public Health (2003), which legalized same-sex marriage.

There is a practice that allows us to see a common social bond. That does not diminish the importance of law. Indeed, as Butler emphasizes, the practice involves simultaneously reflecting on law:

> the ethical and political practice of nonviolence requires an opposition to biopolitical forms of racism and war logics that rely on phantasmagoric inversions that occlude the binding and interdependent character of the social bond.

In the terms of Patricia Hill Collins, one aspect of this is "gaining the critical consciousness to unpack hegemonic ideologies" (Black Feminist Thought, p. 286). As Collins emphasizes, it also involves the development of new epistemological resources.

[for example, Angela Davis has argued that the program of prison abolition involves replacing a conception of society with the footprint of the prison with one that lacks it. More recently, Kristie Dotson has called for a "third order change" to epistemology, one that also reconfigures its conceptual tools]

A pressing question is whether it is possible to describe a practice that is fully liberatory that itself is not subject to inversions (as Rousseau's "general will" notoriously is). One way out of this is to deny that one can describe the practice in a general way. And this I think connects with what is a second move, in the discussion of exceptions.

The practice of non-violence is not free of exceptions ("a non-violent practice may well include a prohibition against killing, but cannot reducible to that prohibition"). But the exceptions cannot be stated as principles, because these would then be further general laws, which could in turn be misapplied.

[On my reading, therefore, Butler's argument is an application of the logic of Lewis Carroll's famous regress involving Achilles and the tortoise. Modus Ponens tells you to

infer B from “If A then B” and B. Carroll argues that one cannot formulate this rule as just another axiom, like “If A and if A then B, then B”, because this axiom could be misapplied. Carroll’s parable is taken to show that there is a difference between *axioms* and *rules of inference*. Rules of inference cannot be further axioms otherwise they could be again misapplied. The moral of Carroll’s regress is that rules of inference are *practices*, not further axioms, i.e. not further laws.]

If we think of the practice of recognizing a social bond (even in its manipulation) as a kind of perception, as *seeing others as grievable* suggests, then there is no need to think of the capacity as describable by a general rule. This is a view that John McDowell sources in Aristotle. We depend on a capacity to see certain things, a capacity that cannot be encoded in a law (though perhaps one could describe it, as McDowell himself suggests, as a generic rule with exceptions). That way, one could avoid its misapplication.

I see the great virtues of Butler’s account, at least as I understand it. But I’d like to end my comments with where I began, with Frederick Douglass’s address. Douglass asks to be viewed in his view, as a “moral, intellectual and responsible being”. My colleague Stephen Darwall describes this as a demand for equal respect, which in his Kantian framework, is a demand for accountability. It would clarify my understanding of Butler’s account if she could help show how seeing Douglass as grievable, in the sense she has developed in these lectures, answers Douglass’s demand here.

Social change for the good happens. All of us face these precise questions. I thank Professor Butler for doing the hard work of laying the foundations for a novel account. I have learned so much from grappling with the ideas she lays out in these marvelous lectures.