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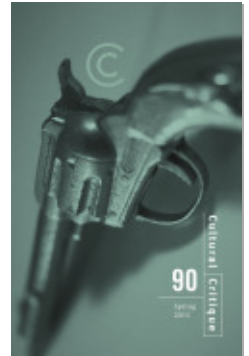
## In the Wake

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## IN THE WAKE

Paul Youngquist

*The deceased was lying in a prone position.*

*The deceased was cool to the touch.*

*The deceased body sustained multiple gunshot wounds.*

*The deceased became belligerent toward officer WILSON.*

*Officer WILSON had his service weapon drawn.*

*As the deceased began to run towards him, he discharged is service weapon several times.*

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**B**egin, then, with the deceased body. It lies prone in the street at 2949 Canfield, Ferguson, Missouri. How it got there—face down in its blood—is a problem to be legally adjudicated.

The lines above convey certain facts recorded, with forensic disinterest, by Medicolegal Investigator Wendell Payne in his “Narrative Report of Investigation” into the death of “Mr. MICHAEL BROWN, black male age of 18 years.”<sup>1</sup> Payne writes Exam Case 2014-5143 on behalf of the Office of the Medical Examiner for Saint Louis County. He details the clothing of the deceased (“yellow socks, tan shorts blue underwear and a gray t-shirt”). He catalogs the wounds (“three wound [sic] to his head . . . two wounds to his chest . . . three wounds to his right arm . . . one wound to the inside of his right hand”). He pins a brief explanation to this deceased body so clearly in need of one. It involves Officer D. WILSON DSN-609 of the Ferguson Police Department (“the deceased became belligerent towards Officer WILSON”). What Medicolegal Investigator Wendell Payne does not record, what goes without saying, is Officer Wilson’s race (“the deceased turned around and ran towards Officer WILSON”). Like 94 percent of the police force, Officer Wilson is white (“he discharged his service weapon several times”).<sup>2</sup> But Payne’s “Narrative Report” remains indifferent to this fact.

The largely African American community of Ferguson did not. It responded, understandably, with a turbulent outcry against *yet another* killing of an unarmed black male by a white police officer. Images of the encounters that ensued between blacks in Ferguson and a heavily armed and militarized police (the riot gear, the shotguns, the snipers, the smoke bombs) seem to reveal a terminal logic of control directed against them by largely white forces, as if race war smolders silently beneath the surface of social life. Paramilitary police operations that put black demonstrators in the crosshairs of a sniper's scope can only fan it into flame. Such actions repeat on a collective scale the inciting scenario of an unarmed African American man falling afoul of a white officer and his service weapon: all to manage community unrest in response to *yet another* police killing.

That repetition bears pondering. The killing of Michael Brown, in itself a cause for deep grief—especially to his mother, family, and friends—turns so portentous for being so familiar. It's only the latest in a series of similar killings. Perpetrated by a single killer, they would be the stuff of manhunts and miniseries. But larger forces are at work here than those of crazed gunmen or cloaked conspiracies. The number of people killed annually by police remains a difficult figure to determine, given that such information arises through self-reporting. If a story appearing in *USA Today* on August 15, 2014, can be trusted, an average of four hundred people per year die at the hands of the police in the United States, often "justifiably" (Johnson, Hoyer, and Heath). Almost 25 percent of these deaths involve white officers and black victims. Circumstances occasionally conspire, as in Ferguson, to turn such a killing into a cause célèbre. Public outrage, political hand-wringing, and media analysis all follow, to the painfully predictable end of acquittal for the agent of law enforcement charged with using excessive force. Who could expect anything else from Ferguson? But for every Michael Brown there is an Eric Garner, a John Crawford, an Ezell Ford; for every Trayvon Martin, a Manuel Loggins Jr., a Justin Sipp, a Nehemiah Dillard; for every Amadou Diallo, a Kendrick Lavelle McDade, an Ervin Jefferson, a Dante Price.<sup>3</sup> All died unarmed in encounters with police. All leave grieving relatives and friends. Now corpses, all were living black men.

They and others yet to come are casualties in a race war the logic of contemporary politics has already fought. Michael Brown's killing

is only the most recent skirmish in a long-standing campaign against black life, transparent in operation and terminal in effect. To glimpse it in action requires, I think, viewing this incident historically, from enough distance to perceive a legacy of violence directed perennially against black life. The killings that Michael Brown's repeats, the mounting body count they produce, recall earlier incidents that lay bare a political logic conducive to that violence and inimical to that life. The aim of remembering them is twofold: to see raced violence as an inheritance and to understand the form it takes today. For those who feel politics has passed beyond such baleful heirlooms of history, I can only offer the condolence due my father as he slipped away into Alzheimer's disease. Is a selective amnesia better than no memory at all?

### REMEMBER: ZONG

In 1781 an incident occurred that exposed with peculiar force the value of black life to the British Empire. Long forgotten—and willfully so—it has recently received renewed attention, inspiring several critical studies, a long elegiac poem, and most recently a movie, *Belle*, whose black protagonist (Dido Elizabeth Belle, born in slavery but raised in the London home of Lord Mansfield, Chief Justice of the King's Bench) was touched by its juridical aftermath. I am thinking of the grim incident of the *Zong*, a British slaver bound from Africa's Guinea Coast to Jamaica with a crew of 17 and a cargo of 440 Africans intended for sale. The vessel's fledgling captain, Luke Collingwood (whose only previous experience came as ship's surgeon), ran into trouble late into the three-month voyage across. As errors in navigation slowed the *Zong*'s progress to port, fever began to thin the ranks of its crew and cargo, killing seven whites and sixty Africans and threatening the profitability of the whole venture.

Water started to run low too, so Collingwood made the fateful decision to throw the sickest among his cargo overboard in order to secure its diminishing value. The *Zong*'s insurance contract, typical of its kind, guaranteed compensation for cargo jettisoned to preserve life and ensure profit. Collingwood ordered Africans topsides in batches: first 54, handcuffed and tossed into the sea; a day later 43 more; and on the third day (after rains came to refresh the water barrels) a final 26, 10 of whom

jumped boldly overboard on their own volition. The *Zong* incident claimed 132 black lives, the sole survivor catching hold of a rope in the water and shinnying back aboard through a porthole. But was it a massacre? Not from the perspective of the insurance contract that took Africans for chattel and valued their lives accordingly.<sup>4</sup>

In *Spectres of the Atlantic: Finance Capital, Slavery, and the Philosophy of History*, Ian Baucom interprets the *Zong* incident as, in Walter Benjamin's terms, a "total event" that crystallizes in an individual moment the abstract operations of a whole system: "The *Zong* speaks to and of a situated and episystemic set of catastrophic worldly truths" (167). More specifically, it announces the "arrival of the contemporary"—a system that for Baucom coordinates the operations of finance capital, raced violence, and speculative abstraction (167). Insofar as the *Zong* incident, occurring 234 years ago, provides an image "wherein what *has been* comes together in a flash with the *now* to form a constellation," it illuminates a system that remains operative across all those years, then and now.<sup>5</sup> Baucom writes a history of the present—a genealogy of raced violence—and nowhere more powerfully than in his analysis of the lawsuit the *Zong* incident inspired.

For soon after the *Zong* finally arrived at its destination (Black River, Jamaica) carrying 208 remaining Africans, its Liverpool owners filed a claim with their insurers for compensation of the cargo jettisoned at sea for the good of the ship. Refused, they took their case to court in the spring of 1783, arguing it before a Guildhall jury over which Lord Mansfield presided. The jury found in favor of the plaintiffs on the established maritime principle that trafficked Africans constituted cargo and should be treated as such.<sup>6</sup> The insurers appealed to have the verdict set aside. During the hearing to determine the need for a second trial, Lord Mansfield rehearsed with disturbing lucidity the Guildhall jury's finding: "(though it shocks one very much) . . . the Case of Slaves was the same as if Horses had been thrown over board. . . . The Question was, whether there was not an Absolute Necessity for throwing them over to save the rest. . . . [T]he Jury were of the opinion there was" (*Wikipedia*). Granville Sharpe, the great abolitionist, would submit a 138-page packet of material to the Lords Commissioners of the Admiralty urging prosecution of the *Zong*'s crew for murder—to no avail. Baucom's masterly reading of Sharpe's submission, too meticulous to render faithfully here, memorializes it as a countermemory to legal

proceedings that, perhaps predictably, would fail to exonerate black life as fit for anything but destruction under necessary circumstances. Although Lord Mansfield judged that new evidence (those rain-filled barrels) exonerated the insurers and implicated the crew in the decision to jettison some blacks unnecessarily, the Africans in question retained cargo status throughout the proceedings. No evidence exists of a second trial.

### HOW TO KILL A BLACK MAN (LAWFULLY)

Although the *Zong* massacre yielded no legal vindication of the political value of black life, it provided abolitionists such as Sharpe and Olaudah Equiano with powerful evidence of the expendability of Africans under British law. People or chattel? The obvious contradiction helped the abolition movement triumph over human trafficking.<sup>7</sup> Raced violence did not disappear, however, with the cessation of the slave trade. It persists into the present, adapting to changed terrain. Although the extension of legal citizenship to diasporic blacks makes it difficult to dispose of them in batches of fifty-four, forty-three, or twenty-six, law enforcement today seems able to manage the task on a smaller scale, and serially. It would be jejune to credit the *Zong* incident, even as “total event,” with directly motivating raced violence in the present. Elements of its “set of catastrophic worldly truths” nevertheless remain operative in the contemporary system whose arrival it announces. First and most broadly, the initiating impetus of “Absolute Necessity.” Under necessary circumstances (lethal fever, lessening water, and the diminishing market value of cargo on the *Zong*) the destruction of black life proves acceptable. So concluded both the Guildhall jury and Lord Mansfield. It may seem a simple point, but homicide proceeds lawfully under necessary circumstances.

But times have changed. Circumstances today will never conspire to legitimate the destruction of black life in the name of market value. The cargo argument is obsolete. Blacks are fellow citizens, and even horses merit care. What circumstances might arise to create the Absolute Necessity required for lawful homicide now? Here it proves helpful to invoke the work of Giorgio Agamben on the logic of exception.

For centuries the English traded Africans across the Atlantic. As cargo they lived below deck and beyond the pale of English law, excluded from its application. Upon arrival in the colonies, however, law includes enslaved Africans as potential criminals excluded from its benefits.<sup>8</sup> Agamben argues that law operates ontologically through just such a “logic of exception,” suspending itself to include an exception it otherwise excludes: “What is outside is included . . . by means of the suspension of the juridical order’s validity—by letting the juridical order, that is, withdraw from the exception and abandon it” (18). The *Zong* incident and its legal aftermath provide living proof of the problem. So long as blacks remain cargo, they also remain excluded from the political rule of law. To include them requires suspending the law that excludes them, including them through their exclusion.

A reversal, then: historically excluded from the law black life becomes, with abolition, emancipation, and citizenship, included by way of its exclusion. African chattel achieves political viability through a logic of exception that suspends law to extend it. Blacks live this liminal logic as a historical inheritance. It lives on in incidents such as the killing by a law enforcement officer of Michael Brown. A second element of “catastrophic worldly truths” conducive to the Absolute Necessity that would legitimate homicide now comes clear. To be included in the operation of law is also to be abandoned by it through the logic of exception. This abandonment is precisely what Michael Brown experienced as events unfolded at 2949 Canfield on August 9, 2014. Walking with a friend in the street, Michael Brown nominally violates the law. Officer Wilson slows his patrol vehicle to request (perhaps disrespectfully) that they both move to the sidewalk. The black men respond (perhaps disrespectfully), and the vehicle drives on. Then it stops. And there, right there in the middle of Canfield, the operation of a logic begins that will fulfill itself in the (lawful?) killing of Michael Brown.

A perilous moment balanced between solicitude and violence. Then a reversal: Officer Wilson throws his vehicle into reverse, provoking a second confrontation: the struggle at the vehicle’s window, the shots fired, the body of the deceased face falling down in the street. Why? The police radio had just broadcast the description of a robbery suspect. Officer Wilson suspects it might be Michael Brown. In Agamben’s terms, he places Michael Brown, however provisionally, under a ban. And

“what has been banned is delivered over to its own separateness and, at the same time, consigned to the mercy of the one who abandons it—at once excluded and included, removed and the same time captured” (110). In his sudden reversal, Officer Wilson criminalizes Michael Brown, identifies him legally through a logic of exception.

Then everything escalates. Absolute Necessity sets in. A third element emerges to authorize the catastrophic truth of lethal, perhaps lawful, violence: life under immediate threat. A heated exchange of words, a fumbling at the window, a reach for the gun—mano a mano—two shots fired, wounded flight. In one terrible instant, Officer Wilson determines that Michael Brown threatens his life and decides to deploy lethal violence. The gun—wasn’t the suspect after it? The Sig Sauer P229 .40-caliber service weapon, twelve-bullet clip and an easy pull. *Big man gets a hold of that and I’m dead. So I reach for it with all I got, pull the trigger once and no shot, maybe the hammer caught his hand, pull again and it fires, and again. He’s off runnin’.* Criminalization abandons Michael Brown to the law and its logic of exception. Lethal threat submits Michael Brown to the fateful decision to use lethal violence.

From then until the moment six wounds later when Michael Brown falls face down in the street a sovereign power prevails that suspends the law against homicide to include this one as exception. Agamben puts its operation bluntly: “The sovereign is the point of indistinction between violence and the law” (32). Fearing for his life, Officer Wilson becomes the agent of a distributed, situational sovereignty that does not distinguish between law and violence. It operates through a logic of exception and proves readily deployable against black life, included juridically in contemporary politics through its historical exclusion from the law. If justification were absolutely necessary for the fateful decision to deploy such violence, *Graham v. Connor*, a Supreme Court ruling from 1989, stands at the ready to exonerate a law enforcement officer’s capacity to calibrate force to circumstance. Absolute necessity, juridical abandonment, lethal threat: this “set of catastrophic worldly truths,” descending from the *Zong* massacre’s “total event” and accommodating the circumstances of contemporary sovereignty, conspire to make homicide at the hands of law enforcement lawful.<sup>9</sup> Such truths legitimate the invisible race war fought by the logic of contemporary politics. Twelve shots, eight wounds, and another dead black man. Michael Brown.



## BIG M I K E

But this is so much speculation, a critic's consolation for the loss of a life unsung. What can I know of the joys, dreams, or sorrows of that deceased body? Who am I to talk about the dead? Haunted by the eternal silence of 132 jettisoned dead Africans, Baucom can narrate only their passage into history. Their story remains impossible to tell. And yet it must be told, as M. NourbeSe Philip insists in her long congeries of verses entitled *Zong!*, written in mournful commemoration of those silent lives. She calls *Zong!* "a wake of sorts, where spectres of the undead make themselves present. And only in not-telling can the story be told" (201). Brilliantly and hauntingly, she not-tells it in words, phrases, and phonemes—*sounds* that spill across her pages like dark stars across a white sky. Sometimes they constellate, sometimes they dissolve, these voicings of the dead. *Zong!*'s first 26 poems—the number of the last batch of Africans brought up from below deck—arise entirely from words taken from the 138 handwritten pages of Granville Sharpe's submission to the Lords Commissioners of the Admiralty. As *Zong!* unfurls, it transforms, as Philip describes it, that "desiccated, legal report into a cacophony of voices—wails, cries, moans, and shouts" (203). Those soundings are enough to communicate the lingering half-life of the dead: "the story must tell itself; it must be allowed to be and not be" (199). So be it. But beneath the word *Zong* and its terrible history persists a counterlegacy of care, not only of the kind that yields poems and books of criticism. Originally a Dutch vessel, the name on its prow received repainting before its African voyage. Its earlier name—*Zorg*—is the Dutch word for care.

## REMEMBER: ZORG

Conclude, then, with a poem, lifted literally from documents officially commemorating Michael Brown's killing:<sup>10</sup>

She described a tattoo  
 In the usual supplemental manner  
 A gray short sleeved t-shirt (with defects)  
 Not for secondary release  
 Lividity is difficult to assess

The remaining male genitalia system is unremarkable  
 The heart weighs 400 gm  
 The bladder contains 40 ml of yellow urine  
 Other significant conditions  
 Gunshot Wound(s) at hands of Law Enforcement  
 There is a gunshot entrance wound of the vertex of the scalp  
 There is a gunshot entrance wound of the central forehead  
 There is a gunshot exit wound of the right jaw  
 There is a gunshot entrance wound of the upper right chest  
 There is a gunshot entrance wound of the lateral right chest  
 There is a gunshot entrance wound of the upper ventral right arm  
 There is a gunshot exit wound of the upper dorsal right arm  
 There is a gunshot entrance wound of the dorsal right forearm  
 There is a gunshot exit wound of the medial ventral right forearm  
 There is a tangential (graze) gunshot wound of the right bicep  
 There is a tangential (graze) gunshot wound near the ventral surface of  
     the right thumb  
 Manner of death: Homicide  
 Age: 18 years  
 Sex: Male  
 Race: Black

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## Notes

1. This document and the official autopsy performed by the Office of the Medical Examiner of Saint Louis County were released by the *St. Louis Post-Dispatch* and can be found at [http://www.stltoday.com/online/pdf-autopsy-report-for-michael-brown/pdf\\_ce018d0c-5998-11e4-b700-001a4bcf6878.html](http://www.stltoday.com/online/pdf-autopsy-report-for-michael-brown/pdf_ce018d0c-5998-11e4-b700-001a4bcf6878.html). Note the peculiarity of the forensic phrase “as the deceased began to run,” as if Michael Brown were already dead at the time of his shooting.

2. Sources differ slightly on the racial makeup of the Ferguson police. The figure quoted here comes from the *New York Times* (<http://www.nytimes.com/2014/08/18/opinion/in-ferguson-black-town-white-power.html>). The *Washington Post* puts the percentage slightly lower at 83 percent (<http://www.washingtonpost.com/blogs/post-partisan/wp/2014/09/05/three-troubling-things-exposed-by-the>

-ferguson-police-shooting-of-michael-brown/). What remains consistent is the racial makeup of the community—67 percent black. Governing officials are mostly white.

3. I take these names from lists available at Harkinson; Davey D. Although Trayvon Martin was not killed by a police officer per se, the circumstances clearly resemble the familiar scenario.

4. For a full and harrowing account of the *Zong* incident, see Walvin. For a concise overview, see *Wikipedia*.

5. The quotation comes from Walter Benjamin, *The Arcades Project*, quoted by Baucom as an epigraph to chapter 1.

6. As cargo, Africans would have been insured according to the notion of “general average,” which measures a typical value against typical loss. Collingwood’s cargo was insured at £30 per head. The average price he realized at market was £36 per head. See Baucom, 107, 11.

7. Agitation to end the slave trade trod a long and difficult path, and I in no way mean to suggest that the *Zong* incident made the going easy. For a detailed and sensitive account of the abolition movement, see Brown.

8. *Elsa V. Goveia* shows how blacks in the colonies appear before the law only as offenders. Their personhood, legally speaking, is always already criminalized. See Goveia.

9. These catastrophic truths and the logic they constellate clearly apply to whites as well as blacks. The police can kill anybody under circumstances of Absolute Necessity or lethal threat. But black life inhabits a legacy that more readily susceptible to exception and the violence it legitimates.

10. The *St. Louis Post-Dispatch* published these documents online at [http://www.stltoday.com/online/pdf-autopsy-report-for-michael-brown/pdf\\_ce018d0c-5998-11e4-b700-001a4bcf6878.html](http://www.stltoday.com/online/pdf-autopsy-report-for-michael-brown/pdf_ce018d0c-5998-11e4-b700-001a4bcf6878.html).

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