The Burdened Individuality of Freedom

The limits of political emancipation appear at once in the fact that the state can liberate itself from constraint without man himself being really liberated; that a state may be a free state without man himself being a free man.

-Karl Marx, On the Jewish Question (1843)

The emancipation of the slaves is submitted to only in so far as chattel slavery in the old form could not be kept up. But although the freedman is no longer considered the property of the individual master, he is considered the slave of society.

-Carl Schurz, Report on the Condition of the South (1865)

Are we to esteem slavery for what it has wrought, or must we challenge our conception of freedom and the value we place upon it?

---Orlando Patterson, Slavery and Social Death (1982)

The entanglements of bondage and liberty shaped the liberal imagination of freedom, fueled the emergence and expansion of capitalism, and spawned proprietorial conceptions of the self. This vexed genealogy of freedom plagued the great event of Emancipation, or as it was described in messianic and populist terms, Jubilee. The complicity of slavery and freedom or, at the very least, the ways in which they assumed, presupposed, and mirrored one another---freedom finding its dignity and authority in this "prime symbol of corruption" and slavery transforming and extending itself in the limits and subjection of freedom---troubled, if not elided, any absolute and definitive marker between slavery and its aftermath.¹ The longstanding and intimate affiliation of liberty and bondage made it impossible to envision freedom independent of constraint or personhood and autonomy separate from the sanctity of property and proprietorial notions of the self. Moreover, since the dominion and domination of slavery were fundamentally defined by black subjection, race appositely framed questions of sovereignty, right, and power.²

The traversals of freedom and subordination, sovereignty and subjection, and autonomy and compulsion are significant markers of the dilemma or double bind of freedom. Marx, describing a dimension of this paradox, referred to it with dark humor as a double freedom—being free to exchange one's labor and free of material resources. Within the liberal "Eden of the innate rights of man," owning easily gave

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way to being owned, sovereignty to fungibility, and abstract equality to subordination and exploitation.³ If sovereignty served "to efface the domination intrinsic to power" and rights "enabled and facilitated relations of domination," as Michel Foucault argues, then what we are left to consider is the subjugation that rights instigate and the domination they efface.⁴

The task of the following chapters is to discern the ways in which emancipatory discourses of rights, liberty, and equality instigate, transmit, and effect forms of racial domination and liberal narratives of individuality idealize mechanisms of domination and discipline. It is not simply that rights are inseparable from the entitlements of whiteness or that blacks should be recognized as legitimate rights bearers; rather, the issue at hand is the way in which the stipulation of abstract equality produces white entitlement and black subjection in its promulgation of formal equality. 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, and abstract equality is utterly enmeshed in the narrative of black subjection, given that slavery undergirded the rhetoric of the republic and equality defined so as to sanction subordination and segregation. Ultimately, I am trying to grapple with the changes wrought in the social fabric after the abolition of slavery and with the nonevent of emancipation insinuated by the perpetuation of the plantation system and the refiguration of subjection.

In exploring these issues and in keeping with the focus on everyday practices, I examine pedagogical handbooks designed to aid freed people in the transition from slavery to freedom, the itinerancy of the freed and other "exorbitant" practices, agricultural reports concerned with the productivity of free labor, political debate on the Reconstruction Amendments, and legal cases in order to consider the discrepant bestowal of emancipation. The narratives of slavery and freedom espoused in these disparate sources vied to produce authoritative accounts of liberty, equality, free labor, and citizenship. This generally entailed a deliberation on the origins of slavery, if not the birth of the republic, the place of slavery in the Constitution, the substance of citizenship, and the lineaments of black freedom.

By examining the metamorphosis of "chattel into man" and the strategies of individuation constitutive of the liberal individual and the rights-bearing subject. I hope to underscore the ways in which freedom and slavery presuppose one another, not only as modes of production and discipline or through contiguous forms of subjection but as founding narratives of the liberal subject revisited and revisioned in the context of Reconstruction and the sweeping changes wrought by the abolition of slavery. At issue are the contending articulations of freedom and the forms of subjection they beget. It is not my intention to argue that the differences between slavery and freedom were negligible; certainly such an assertion would be ridiculous. Rather, it is to examine the shifting and transformed relations of power that brought about the resubordination of the emancipated, the control and domination of the free black population, and the persistent production of blackness as abject, threatening, servile, dangerous, dependent, irrational, and infectious. In short, the advent of freedom marked the transition from the pained and minimally sensate existence of the slave to the burdened individuality of the responsible and encumbered freedperson.

The nascent individualism of the freed designates a precarious autonomy since exploitation, domination, and subjection inhabit the vehicle of rights. The divisive and individuating power of discipline, operating in conjunction with the sequestering and segregating control of black bodies as a species body, permitted under the guise of social rights and facilitated by the regulatory power of the state, resulted in the paradoxical construction of the freed both as self-determining and enormously burdened individuals and as members of a population whose productivity, procreation, and sexual practices were fiercely regulated and policed in the interests of an expanding capitalist economy and the preservation of a racial order on which the white republic was founded. Lest "the white republic" seem like an inflated or unwarranted rhetorical flourish, we must remember that the transformation of the national government and the citizenship wrought by the Reconstruction Amendments were commonly lamented as representing the loss of the "white man's government."⁵

In light of the constraints that riddled conceptions of liberty, sovereignty, and equality, the contradictory experience of emancipation cannot be adequately conveyed by handsome phrases like "the rights of the man," "equal protection of the law," or "the sancitity of life, liberty, and property." Just as the peculiar and ambivalent articulation of the chattel status of the enslaved black and the assertion of his rights under the law, however limited, had created a notion of black personhood or subjectivity in which all the burdens and few of the entitlements of personhood came to characterize this humanity, so, too, the advent of freedom and the equality of rights conferred to blacks a status no less ambivalent. The advent of freedom held forth the possibility of a world antithetical to slavery and portents of transformations of power and status that were captured in carnivalesque descriptions like "bottom rail on top this time." At the same time, extant and emergent forms of domination intensified and exacerbated the responsibilities and the afflictions of the newly emancipated. I have opted to characterize the nascent individualism of emancipation as "burdened individuality" in order to underline the double bind of freedom: being freed from slavery and free of resources, emancipated and subordinated, selfpossessed and indebted, equal and inferior, liberated and encumbered, sovereign and dominated, citizen and subject. (The transformation of black subjectivity effected by emancipation is described as nascent individualism not simply because blacks were considered less than human and a hybrid of property and person prior to emancipation but because the abolition of slavery conferred on them the inalienable rights of man and brought them into the fold of liberal individualism. Prior to this, legal precedents like State v. Mann and Dred Scott v. Sanford made the notions of blacks' rights and black citizenship untenable, if not impossible.)

The antagonistic production of abstract equality and black subjugation rested upon contending and incompatible predications of the freed—as sovereign, indivisible, and self-possessed and as fungible and individuated subjects whose capacities could be quantified, measured, exchanged, and alienated. The civil and political rights bestowed upon the freed dissimulated the encroaching and invasive forms of social control exercised over black bodies through the veneration of custom; the regulation,

production, and protection of racial and gender inequality in the guise of social rights; the repressive instrumentality of the law; and the forms of extraeconomic coercion that enabled the control of the black population and the effective harnessing of that population as a labor force. The ascribed responsibility of the liberal individual served to displace the nation's responsibility for providing and ensuring the rights and privileges conferred by the Reconstruction Amendments and shifted the burden of duty onto the freed. It was their duty to prove their worthiness for freedom rather than the nation's duty to guarantee, at minimum, the exercise of liberty and equality, if not opportunities for livelihood other than debt-peonage. Emancipation had been the catalyst for a transformed definition of citizenship and a strengthened national state. However, the national identity that emerged in its aftermath consolidated itself by casting out the emancipated from the revitalized body of the nationstate that their transient incorporation had created.⁶ In the aftermath of the Civil War, national citizenship assumed greater importance as a result of the Fourteenth Amendment, which guaranteed civil rights at the national level against state violation and thus made the federal government ultimately responsible for ensuring the rights of citizens.7 Yet the illusory universality of citizenship once again was consolidated by the mechanisms of racial subjection that it formally abjured,

This double bind was the determining condition of black freedom. The belated entry of the newly freed into the realm of freedom, equality, and property, as perhaps expected, revealed the boundaries of emancipation and duly complicated the meaning of freedom. Certainly manhood and whiteness were the undisclosed, but always assumed, norms of liberal equality, although the Civil Rights Act of 1866 made this explicit in defining equality as being equal to white men. The challenge of adequately conveying the dilemmas generated by this delayed entry exceeds the use of descriptions like "limited," "truncated," or "circumscribed" freedom; certainly these designations are accurate, but they are far from exhaustive. This first order of descriptives begs the question of how race, in general, and blackness, in particular, are produced through mechanisms of domination and subjection that have yoked, harnessed, and infiltrated the apparatus of rights. How are new forms of bonded labor engendered by the vocabulary of freedom? Is an emancipatory figuration of blackness possible? Or are we to hope that the entitlements of whiteness will be democratized? Is the entrenchment of black subordination best understood in the context of the relations of production and class conflict? Is race best considered an effect of the operation of power on bodies and populations exercised through relations of exploitation, domination, and subjection? Is blackness the product of this combined and uneven articulation of various modalities of power? If slave status was the primary determinant of racial identity in the antebellum period, with "free" being equivalent to "white" and slave status defining blackness, how does the production and valuation of race change in the context of freedom and equality?8

The task of describing the status of the emancipated involves attending to the articulation of various modes of power, without simply resorting to additive models of domination or interlocking oppressions that analytically maintain the distinctiveness and separateness of these modes and their effects, as if they were isolated elements that could be easily enumerated—race, class, gender, and sexuality—or as if they were the ingredients of a recipe for the social whereby the mere listing of elements enables an adequate rendering. Certainly venturing to answer these questions is an enormously difficult task because of the chameleon capacities of racism, the various registers of domination, exploitation and subjection traversed by racism, the plasticity of race as an instrument of power, and the divergent and sundry complex of meanings condensed through the vehicle of race, as well as the risks entailed in generating a description of racism that does not reinforce the fixity of race or neglect the differences constitutive of race. As well, it is important to remember that there is not a monolithic or continuous production of race. Mindful of these concerns, chapter 5, "Fashioning Obligation: Indebted Servitude and the Fetters of Slavery," and chapter 6, "Instinct and Injury: Bodily Integrity, Natural Affinities, and the Constitution of Equality," do not attempt to theorize blackness as such but instead examine varied and contested articulations of blackness in regard to issues of responsibility, will, liberty, contract, and sentiment.

If race formerly determined who was "man" and who was chattel, whose property rights were protected or recognized and who was property, which consequently had the effect of making race itself a kind of property, with blackness as the mark of object status and whiteness licensing the proprietorship of self, then how did emancipation affect the status of race? The proximity of black and free necessarily incited fundamental changes in the national fabric. The question persists as to whether it is possible to unleash freedom from the history of property that secured it, for the security of property that undergirded the abstract equality of rights bearers was achieved, in large measure, through black bondage. As a consequence of emancipation, blacks were incorporated into the narrative of the rights of man and citizen; by virtue of the gift of freedom and wage labor, the formerly enslaved were granted entry into the hallowed halls of humanity, and, at the same time, the unyielding and implacable fabrication of blackness as subordination continued under the aegis of formal equality. This is not to deny the achievements made possible by the formal stipulation of equality but simply to highlight the fractures and limits of emancipation and the necessity of thinking about these limits in terms that do not simply traffic in the obviousness of common sense-the denial of basic rights, privileges, and entitlements to the formerly enslaved---and yet leave the framework of liberalism unexamined. In short, the matter to be considered is how the formerly enslaved navigated between a travestied emancipation and an illusory freedom.⁹

When we examine the history of racial formation in the United States, it is evident that liberty, property, and whiteness were inextricably enmeshed. Racism was central to the expansion of capitalist relations of production, the organization, division, and management of the laboring classes, and the regulation of the population through licensed forms of sexual association and conjugal unions and through the creation of an internal danger to the purity of the body public. Whiteness was a valuable and exclusive property essential to the integrity of the citizen-subject and the exemplary self-possession of the liberal individual. Although emancipation resulted in a decisive shift in the relation of race and status, black subordination continued under the aegis of contract. In this regard, the efforts of Southern states to codify blackness in constitutions written in the wake of abolition and install new measures in the law that would secure the subordination of freed black people demonstrate the prevailing disparities of emancipation. The discrepant production of blackness, the articulation of race across diverse registers of subjection, and the protean capacities of racism illuminate the tenuousness of equality in a social order founded on chattel slavery. Certainly the freed came into "possession" of themselves and basic civil rights consequent to the abolition of slavery. However, despite the symbolic bestowal of humanity that accompanied the acquisition of rights, the legacy of freedom was an ambivalent one. If the nascent mantle of sovereign individuality conferred rights and entitlements, it also served to obscure the coercion of "free labor," the transmutation of bonded labor, the invasive forms of discipline that fashioned individuality, and the regulatory production of blackness.

Notwithstanding the dissociation of the seemingly inviolable imperial body of property resulting from the abolition of slavery and the uncoupling of the masterand-slave dyad, the breadth of freedom and the shape of the emergent order were the sites of intense struggle in everyday life. The absolute dominion of the master, predicated on the annexation of the captive body and its standing as the "sign and surrogate" of the master's body, yielded to an economy of bodies, yoked and harnessed, through the exercise of autonomy, self-interest, and consent. The use, regulation, and management of the body no longer necessitated its literal ownership since self-possession effectively yielded modern forms of bonded labor. However, as Marx observed with notable irony, the pageantry of liberty, equality, and consent enacted within this veritable Eden of rights underwent a radical transformation after the exchange was made, the bargain was struck, and the contract was signed. The transactional agent appeared less as the self-possessed and willful agent than as "someone who has brought his own hide to market and now has nothing to expectbut a tanning."¹⁰ Although no longer the extension and instrument of the master's absolute right or dominion, the laboring black body remained a medium of others' power and representation.¹¹ If the control of blacks was formerly effected by absolute rights of property in the black body, dishonor, and the quotidian routine of violence, these techniques were supplanted by the liberty of contract that spawned debt-peonage, the bestowal of right that engendered indebtedness and obligation and licensed naked forms of domination and coercion, and the cultivation of a work ethic that promoted self-discipline and induced internal forms of policing. Spectacular displays of white terror and violence supplemented these techniques.¹²

At the same time, the glimpse of freedom enabled by the transformation from chattel to man fueled the resistance to domination, discipline, and subjugation, for the equality and personal liberty conferred by the dispensation of rights occasioned a sense of group entitlement intent on collective redress as these newly acquired rights also obfuscated and licensed forms of social domination, racial subjection, and exploitation. Despite the inability of the newly emancipated to actualize or enjoy the full equality or freedom stipulated by the law and the ways in which these newly acquired rights masked the modes of domination attendant to the transition from slavery to freedom, the possession of rights was nonetheless significant.

The failures of Reconstruction are perhaps best understood by examining the cross-hatchings of slavery and freedom as modes of domination, subjection, and accumulation.¹³ Just as "the veiled slavery of wage labourers in Europe needed the unqualified slavery of the New World as its pedestal," so, too, did slavery provide the pedestal upon which the equality of rights appeared respinedent and veil the

relations of domination and exploitation harbored in the language of rights. If the violation of liberty and rights exacted by slavery's presence disfigured the revolutionary legacy of 1776-life, liberty, and the pursuit of happiness-then no less portentous was the legitimation and sanctioning of race as a natural ordering princinle of the social during the transformation of national identity and citizenship. The legacy of slavery was evidenced by the intransigence of racism, specifically the persistent commitment to discriminatory racial classifications despite the prohibition of explicit declarations of inequality or violations of life, liberty, and property based on prior condition of servitude or race. On one hand, the constraints of race were formally negated by the stipulation of sovereign individuality and abstract equality. and on the other, racial discriminations and predilections were cherished and protected as beyond the scope of law. Even more unsettling was the instrumental role of equality in constructing a measure of man or descending scale of humanity that legitimated and naturalized subordination. The role of equality in the furtherance of whiteness as the norm of humanity and the scale and measure of man was not unlike the surprisingly adverse effects wrought by the judicial assessment of the Thirteenth Amendment, which resulted in progressively restricted notions of enslavement and its incidents that, in turn, severely narrowed the purview of freedom.

The advent of freedom was characterized by forms of constraint that, resembling those experienced under slavery, relied primarily on force, compulsion, and terror and others that fettered, restricted, and confined the subject precisely through the stipulation of will, reason, and consent. Moreover, the revolution of sentiment consequent to emancipation supplanted paternalist affections with racial antipathy and reciprocity with revulsion. This discrepant or discordant bestowal of emancipation can be gleaned in a variety of everyday sites and practices. To this end, I employ instructive handbooks for the freed, the Reconstruction Amendments, technical handbooks of plantation management, labor contracts, and everyday practices as templates for reading these contending articulations of freedom and the forms of subjection they engendered. As stated earlier, the term "burdened individuality" attempts to convey the antagonistic production of the liberal individual, rights bearer, and raced subject as equal yet inferior, independent yet servile, freed yet bound by duty, reckless yet responsible, blithe yet brokenhearted. "Burdened individuality" designates the double bind of emancipation-the onerous responsibilities of freedom with the enjoyment of few of its entitlements, the collusion of the disembodied equality of liberal individuality with the dominated, regulated, and disciplined embodiment of blackness, the entanglements of sovereignty and subjection, and the transformation of involuntary servitude effected under the aegis of free labor. This is not to suggest simply that blacks were unable to achieve the democratic individuality of white citizens but rather that the discourse on black freedom emphasized hardship, travails, and a burdened and encumbered existence. Therefore, burdened individuality is both a descriptive and a conceptual device utilized to explicate the particular modes and techniques of power of which the individual is the object and instrument. The power generative of this condition of burdened individuality encompassed repression, domination, techniques of discipline, strategies of self-improvement, and the regulatory interventions of the state.

The mantle of individuality effectively conscripted the freed as indebted and

dutiful worker and incited forms of coercion, discipline, and regulation that profoundly complicated the meaning of freedom. If it appears paradoxical that the nomination "free individual" illuminates the fractures of freedom and begets methods of bondage quite suited to a free labor economy, it is only because the mechanisms through which right, exchange, and equality bolster and advance domination, subjection, and exploitation have not been interrogated. Liberal discourses of freedom enable forms of subjection seemingly quite at odds with its declared principles, since they readily accommodate autonomy and domination, sovereignty and submission, and subordination and abstract equality. This can be attributed to the Lockean heritage of U.S. constitutionalism, which propounded an ideal of liberty founded in the sanctity of property, and the vision of liberty forwarded in the originary narrative of the Constitution, which wed slavery and freedom in the founding of the nation and the engendering of "we the people."¹⁴ Nonetheless, the question remains as to how the effort to sever the disavowed and repressed coupling of liberty and bondage that inaugurated the republic effected new forms of domination.¹⁵ How did emancipatory figurations of a rights-bearing individual aimed at abolishing the badges of slavery result in burdened individuality?

Restrictive and narrow conceptions of liberty derived from bourgeois constructions of the market, the atomizing and individualizing character of rights, and an equality grounded in sameness enabled and dissimulated the domination and exploitation of the postbellum order. Prized designations like "independence," "autonomy," and "free will" are the lures of liberalism, yet the tantalizing suggestion of the individual as potentate and sovereign is drastically undermined by the forms of repression and terror that accompanied the advent of freedom, the techniques of discipline that bind the individual through conscience, self-knowledge, responsibility, and duty, and the management of racialized bodies and populations effected through the racism of the state and civil society.¹⁶ Liberalism, in general, and rights discourse, in particular, assure entitlements and privileges as they enable and efface elemental forms of domination primarily because of the atomistic portrayal of social relations, the inability to address collective interests and needs, and the sanctioning of subordination and the free reign of prejudice in the construction of the social or the private. Moreover, the universality or unencumbered individuality of liberalism relies on tacit exclusions and norms that preclude substantive equality; all do not equally partake of the resplendent, plenipotent, indivisible, and steely singularity that it proffers. Abstract universality presumes particular forms of embodiment and excludes or marginalizes others.¹⁷ Rather, the excluded, marginalized, and devalued subjects that it engenders, variously contained, trapped, and imprisoned by nature's whimsical apportionments, in fact, enable the production of universality, for the denigrated and deprecated, those castigated and saddled by varied corporeal maledictions, are the fleshy substance that enable the universal to achieve its ethercal splendor.

Nevertheless, the abstract universality of the rights of man and citizen also potentially enable these rights to be enjoyed by all, at least theoretically. Thus universality can conceivably exceed its stipulated and constitutive constraints to the degree that these claims can be taken up and articulated by those subjects not traditionally entitled to the privileges of disembodied and unencumbered universality. The abstractness and instability of rights make possible their resignification. Nonetheless, when those formerly excluded are belatedly conferred with rights and guarantees of equal protection, they have traditionally had difficulty exercising these rights, as long as they are seen as lesser, derivative, or subordinate embodiments of the norm. Plainly speaking, this is the gap between the formal stipulation of rights and the legitimate exercise of them.¹⁸ In this regard, it is necessary to consider whether the effort of the dominated to "take up" the universal does not remedy one set of injuries only to inflict injuries of another order. It is worth examining whether universalism merely dissimulates the stigmatic injuries constitutive of blackness with abstract assertions of equality, sovereignty, and individuality. Indeed, if this is the case, can the dominated be liberated by universalist assertions?¹⁹

As citizens and rights bearers, were the newly emancipated merely enacting a role they could never legitimately or authentically occupy? Were they fated to be hapless aspirants, who in their effort to exercise newly conferred rights only revealed the distance between the norm and themselves? As Mrs. Freeman, a character from Helen E. Brown's John Freeman and His Family, a fictional account of emancipation, declared: "I want we should be just as near like white folks as ever we can ketch it."²⁰ Certainly this remark highlights the chasm between the mimetic and the legitimate. It is not simply fortuitous that Mrs. Freeman expresses this sentiment, for she, even more than her husband, is ill-suited for the privileges and responsibilities attendant to citizenship. The discourse of citizenship presupposed a masculinist subject on which to drape the attendant rights and privileges of liberty and equality, thus explaining why the transition from slavery to freedom was usually and quite aptly narrated as the journey from chattel to man. Alas, the joke is on Mrs. Freeman, as expressed by the convoluted phrasing and orthographic nonsense that articulate her insuperable distance from the norm and intimate the unspoken exclusions of the universal rights of man and citizen.

Chattel becomes man through the ascension to the hallowed realm of the selfpossessed. The individual thus fabricated is "free from dependence on the will of others, enters relations with others voluntarily with a view of his own interest, is the proprietor of his own person and capacities, and free to alienate his labor."21 Although assertions of free will, singularity, autonomy, and consent necessarily obscure relations of power and domination, the genealogy of freedom, to the contrary, discloses the intimacy of liberty, domination, and subjection. This intimacy is discerned in the inequality enshrined in property rights, the conquest and captivity that established "we the people," and the identity of race as property, whether evidenced in the corporeal inscriptions of slavery and its badges or in the bounded bodily integrity of whiteness secured by the abjection of others,²² The individual, denuded in the harsh light of scrutiny, reveals a subject tethered by various orders of constraint and obscured by the figure of the self-possessed, for lurking behind the disembodied and self-possessed individual is the fleshy substance of the embodied and the encumbered-that is, the castigated particularity of the universal.23 In this light, the transubstantiation of the captive into volitional subject, chattel into proprietor, and the circumscribed body of blackness into the disembodied and abstract universal seems improbable, if not impossible.

In light of these remarks, the transition from slavery to freedom cannot adequately

be represented as the triumph of liberty over domination, free will over coercion, or consent over compulsion. The valued precepts of liberalism provide an insufficient guide to understanding the event of emancipation. The ease with which sovereignty and submission and self-possession and servility are yoked is quite noteworthy. In fact, it leads us to wonder whether the insistent, disavowed, and sequestered production of subordination, the inequality enshrined by the sanctity of property, and the castigating universality of liberalism are all that emancipation proffers. Is not the free will of the individual measured precisely through the exercise of constraint and autonomy determined by the capacity to participate in relations of exchange that only fetter and bind the subject? Does the esteemed will replace the barbaric whip or only act as its supplement? In light of these questions, the identity of the emancipated as rights bearer, free laborer, and calculable man must be considered in regard to processes of domination, exploitation, and subjection rather than in the benighted terms that desperately strive to establish slavery as the "prehistory" of man.