

## Zones of Non-Responsibility in Will Ferguson's 419: Articulations and Contestations

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Will Ferguson's *419* is a novel concerned with the relationship between the local and the global; specifically, the text follows the particularities of individual lives that implicate one another across a vast geographical range. Over the course of the novel, the fates of these individual lives intertwine in ways that are unprecedented outside of the era of globalization, calling into question received understandings of difference and responsibility. This act of questioning manifests itself in the novel's construction of the fraught relationship between law and ethics. Winston, an internet scammer, is not immune to feelings of cognitive dissonance arising from the ethical problem his scamming poses; ironically, it is the legal loophole within section 419 of the Nigerian criminal code that allows him to engage in the act of scamming, and he opportunistically makes use of the letter of the law to justify his criminal behaviour. The relationship between the law and criminality put forth by the novel, a relationship so intimate that it is the very law it violates that gives the 419 scam its name, raises many questions about the connection between the law and ethics in the era of globalization, and its broader connections to the shifting sense of responsibility brought about by changes to time and space at the beginning of the twenty-first century: what is the relationship between law and lawlessness? Whom does the law exclude from protection? And perhaps most importantly, given the novel's global reach, how might the law function to sanction or justify abuses toward a distant Other?

Useful to answering these questions is the work of Giorgio Agamben, Achille Mbembe, and Simon Springer, whose writings on the type of "zones of non-responsibility" (*Homo sacer* 21) that allow large-scale human rights violations to take place may be brought to bear on the types of abuses present in Ferguson's text. The rootedness of the 419 scam within the letter of the law; the inhabitants of the Niger River Delta and their exclusion from protection against exploitation by foreign oil companies; and the secondary characters of Ambrose Littlechild, a drifter with "no fixed address," and a refugee known only as Amina: all of these elements of the text support Agamben's assertion that the law creates the conditions of its own suspension, and that by this "state of exception"

(*Homo sacer* 168) it justifies abuses toward a distant Other who is granted existence only by virtue of his/her exclusion from the law. Within this framework, Winston's manipulation of Nigerian law to enact the 419 scam constitutes an opportunistic retaliation against the state of exception. Taken together, the interconnections between these local narratives reflect a global system of exchange that brings previously distinct zones of non-responsibility into proximity in a way that forces an acknowledgement by those who come under the law's protection of those who do not.

Where the law is present in *419*, it is most often being breached, manipulated, or ignored. Whether it is Laura, who seeks legal help in solving the case of her father's death but later takes the law into her own hands when she learns he has been made the victim of the 419 scam; Winston, who capitalizes on legal loopholes to conduct criminal activity; or Nnamdi, whose home and people are victimized by exploitative and technically illegal labour practices, the relationship Ferguson's characters hold to the law reflects themes in recent political theory, most notably the work of Giorgio Agamben, whose work centres on how abuses perpetrated by the sovereign power toward certain groups come to be sanctioned by law. While Agamben deals primarily with theorizing of the Holocaust, his writings are nonetheless relevant to a reading of *419*, whose characters undergo abuses that may be read as simply the latest manifestation of the law's involvement in state violence. Agamben argues that the law exists not to bring criminals to justice, or to defend the rights of the weak, but rather, at its core, only in order to articulate what he calls zones of non-responsibility. One cannot write a law into being without simultaneously creating a state of exception in which that law will not apply; for example, to state, in law, that certain rights will be extended to all citizens of a particular state tacitly articulates a space in which those deemed to be non-citizens may be stripped of these rights. The horror of events like the Holocaust lies not in its exceptional violence, but rather in the way such violence is rendered commonplace by its legal codification. Though the Holocaust may seem far removed from the contemporary Canadian and Nigerian locales that feature in Ferguson's novel, Agamben's questioning of the presumed link between law and ethics is nonetheless relevant to the types of abuses that take place in *419*, most notably the sustained environmental and human exploitation taking place along the Niger River Delta by Western oil companies. For Agamben, no such link exists, except to describe how the law can and frequently does *intrude* upon our code of ethical behaviour; it is this intrusion that underpins the abuses suffered by the novel's characters, both in Nigeria and in Canada.

The central figure of Agamben's argument is the individual he names *homo sacer*: he who is excluded from the law's protection and toward whom the state of exception sanctions the sovereign power's worst abuses. Originally signifying an obscure figure of archaic Roman law, *homo sacer* in Agamben's appropriation of the term refers to one whom the state does not recognize, and who is thus effectively stripped of his/her political identity (i.e., human rights) and reduced to his/her "bare" or animal life (*Homo sacer* 4). The *homo sacer* is included in the juridical order only by virtue of his exclusion. Agamben writes, "At once excluding bare life from and capturing it within the political order, the state of exception actually constitute[s], in its very separateness, the hidden foundation on which the entire political system rest[s]" (*Homo sacer* 19). Agamben concludes that it is this state of exception that "allows for the foundation and definition of the normal legal order" (*Remnants* 48). This idea has widespread implications beyond the Holocaust; Achille Mbembe's postcolonial application of Agamben is especially pertinent to a reading of *419* and the issues the novel raises. For Mbembe, it is law's very capacity to give rise to the state of exception that allows the sovereign power to imagine "the inhumanity of, or rule over, foreign peoples" (Mbembe 157). Whereas for Agamben the concentration camp is the spatial embodiment of the state-of-exception-become-rule, for Mbembe, it is the colony, which, he states, "represents the site where sovereignty consists fundamentally in the exercise of a power outside the law (*ab legibus solutus*) and where 'peace' is more likely to take on the face of a 'war without end'" (162). Put differently, for both Agamben and Mbembe, the idea of a link between law and ethics is a misplaced one; rather, the law creates the conditions of its own suspension, which allows for abuses toward those who are only included in the juridical system by virtue of their exclusion. As demonstrated by *419*, the zone of non-responsibility that the law creates is not just symbolic but has a material existence: indeed, its existence depends upon the creation of literal spaces of non-responsibility that are foregrounded and contested within Ferguson's text.

In *419*, space functions as an embodiment of the state of exception in which neocolonial power is exercised toward the novel's Nigerian characters, who come to embody Agamben's *homo sacer*: one who is forcibly reduced to bare life via lack of juridical recognition. Though the novel is set in a postcolonial environment, the aftermath of colonialism, manifested through neoliberal exploitation, is still very much present. In "Neoliberalising violence: of the exceptional and the exemplary in coalescing moments," Simon Springer writes that neoliberalism's focus on economic growth is "inextricably bound" (137) to violence, and that "the

hegemony of neoliberalism positions it as an abuser, which actively facilitates the abandonment of 'Others' who fall outside of 'neoliberal normativity'" (137). Neoliberalism has a homogenizing effect on global geographies that reduces individuals to their capacity as labourers. The abandonment of Others (those falling outside of this capacity) produces "a relation of inclusive-exclusion" that "aligns it with sovereign power" (140). Springer argues that the systemic violence perpetrated against those who fall outside of neoliberal normativity (*i.e.*, the creation of conditions that necessitate the turn toward illegal activity or forced migration) metamorphoses from exceptional to exemplary, as "aversion for alterity intensifies under neoliberalism and its associated violence against 'Others' comes to form the rule" (136). In this way, neoliberalism functions as a contemporary example of the normalization of Agamben's state of exception.

Since, as David Harvey writes, "command over spaces and times is a crucial element in any search for profit" (226), the creation of a space of exception allowing for unfettered exploitation is crucial to neoliberal gain; as shown in the drilling of the Niger River Delta by Western oil companies, neoliberalism and sovereign power coalesce in the space of the oil field, which, because of its geographical distance from the sovereign power (in this case, the West), lies outside of the law's protection. A conversation between Nnamdi, an Ijaw fisherman and resident of the Delta, and an oil company employee reveals that these oil companies are operating within a zone of non-responsibility outside of the law's protection: "In Europe and in America, where I'm from, they have tough laws about environmental stuff.' The instructor laughed. 'We could never do there what we do here.'" (186). What is unlawful in one's home state is rendered lawful in the foreign one. Here the oilfield fits Mbembe's description of colonial space as an embodiment of the state of exception, in which the individual is treated "as if he or she no longer existed except as a mere tool and instrument of production" (161). In the Niger Delta it is the Western oil companies that constitute the new colonial presence and which make the oilfields into "the location *par excellence* where the violence of the state of exception is deemed to operate in the service of 'civilisation'" (163). In the context of late capitalism it is profit that comes to replace civilisation as central project of the colonial power, enacting what Mbembe calls "the generalised instrumentalization of human existence and the material destruction of human bodies and populations" (154).

The liminal spaces occupied by individuals whose lives are instrumentalized by the state of exception reflect their marginalization. Like Agamben's *homo sacer*, those employed at the drilling site are stripped

of their political identity and reduced to bare life. As Nnamdi describes, “they were all Shell Men; it didn’t matter whether they were *oyibos* or Igbo, and it didn’t matter what the colour of their coveralls was or which particular tribal markings were sewn onto their chest pockets: Chevron, Texaco, Mobil, Agip, BP, Exxon. Total from France, Eni and Saipem from Italy. Even the NNPC, Nigeria’s own National Petroleum Corporation. It was all Shell” (Ferguson 178). Regardless of race or nationality, in the neoliberal state of exception in which all forms of Otherness are subordinated to economic growth, each is reduced to his capacity as labourer. The erasure that this exploitation enacts upon all forms of Otherness manifests itself in the liminal spaces that those living along the oil companies’ “Road to Nowhere” (176) are forced to inhabit. The unlawful-yet-lawful exploitation of the Niger River Delta makes its inhabitants into what Mbembe calls the “living dead” within a necropolitical order in which life is subjugated to the power of death (177). Echoing this notion, Nnamdi, upon coming across a village decimated by the Nigerian government in response to civilian attacks on an oil pipeline, muses, “The *teme* of the childless and of those lost between wombs were said to inhabit the Village of the Dead after their passing. Is that what this was? A graveyard of lost souls?” (Ferguson 193). Here Nnamdi equates the village’s inhabitants with the “woeful ghost” or “outcast” (166) of Ijaw myth. Nnamdi himself also occupies a liminal space: as the narrator reveals, “There were times when Nnamdi scarcely seemed tethered to this world” (175). Nnamdi’s existence is suspended in a state somewhere between life and death in a way that places him among the “living dead” Mbembe identifies. Upon meeting Amina in the desert after he is forced to flee the violence erupting in the Delta between the oil companies and the villagers who rise up to contest their exploitation, Nnamdi is recognized by Amina as an inhabitant of the Delta by “the dark sheen of oil” coating his face “as though it had soaked into his skin” (233). This covering is the mark of the oil companies’ imposition of neoliberal normativity onto Nnamdi: the coating of oil extracted from the exploited land symbolizes an attempt to normalize his Otherness by rendering him into an exploitable, dehumanized extension of the land itself. His body bears the marks of his exclusion from the juridical order through the reduction of his identity to his bare capacity as tool of production. The liminal position occupied by Nnamdi and others affected by the oil drilling operation reflects their marginal position (outside the protection of the law) and the stripping away of their political identity. For Nnamdi and the other inhabitants of the Delta, this marginalization is the result of their geographical separation from the sovereign power. But the *homo sacer*

need not be denied protection of the law strictly by virtue of his or her distance from the sovereign state; the state of exception can just as easily exclude individuals within a given state if their exclusion allows for an increase in the state's ability to exercise its sovereign power, as reflected in the cases of two secondary characters: Amina and Ambrose Littlechild.

Amina is an individual marked for exclusion from the juridical order by virtue of her failure to conform to neoliberal normativity. One of the first impressions of Amina, a placeless refugee who for undisclosed reasons must flee the Sahel desert and avoid detection, is of a woman "following bone-ribbed cattle down to a swampy pond where she refilled her jerry can" (77). This vivid image of a woman reduced to being just one more member of a herd of cattle suggests that Amina, like Nnamdi, has been reduced to bare or animal life. Amina comes from a tribe of Sahel desert nomads who, she recalls her father telling her, are "not Nigerians," but "something else" (81). While the reasons for Amina's desert flight are never made explicit, Ferguson suggests that it is tied to the ongoing marginalization of her people: a tribe whose recent fall in status from horse-men to herdsmen is only the latest manifestation of such marginalization. Amina recalls a song, handed down over generations, singing, "If we are destined to disappear, we are destined to disappear . . . But if so, we will go with our swords drawn" (88). That these are the songs of Amina's people reflects the degree to which exclusion has, historically, formed the basis of their cultural identity.

The exclusion of Amina and her people from the juridical order has a distinct spatial quality that is reminiscent of that of Nnamdi and his fellow villagers. "*You have contained us; you have not conquered us*" (75), the battle cry of Amina's tribe, embodies the degree to which the denial of the Sahel clan's political existence is tied to physical displacement. Traditionally, this has meant relegation to the desert itself, something the tribe has used opportunistically to its advantage:

'We were ambush traders' was how they liked to describe it, eyes smiling. Ambush traders lying in wait for Arab camel drivers and Tuareg salt traders. 'We negotiated with swords drawn.' Caliphates and sultans were forced to kneel, emirs to bow down. Even the Seven Kingdoms of the Hausa had not been able to subdue them. Whenever armies moved against them, her clan would simply melt back into the Sahel. (87)

The seeming ability to become part of the land itself places the tribe in opposition with Nnamdi and his covering of oil; here the tribe uses their outsider position to their advantage in order to escape the detection of government forces. In present-day Nigeria, however, it seems that the position Amina occupies in relation to the desert is far more precarious; she is sorely lacking in food and water, and her descriptions of the “swaths of failed crops,” “soil grown too sandy for millet,” and “sparse grasses barely enough to support base grazing” (77) suggest that, like Nnamdi, Amina occupies her current position as a result of large-scale environmental exploitation that is likely tied to the Western oil trade. That the water inside Amina’s jerry can “still taste[s] of gasoline” (77) no matter how many times she has rinsed it out reinforces the connection between Amina’s position as *homo sacer* and the exploitative oil trade.

As one who falls outside of neoliberal normativity, Amina is at risk of total erasure by neoliberal violence, this time in the form of literal extinction. For Amina this erasure takes the form of symbolic association with the desert, which engulfs the surrounding land as a direct consequence of environmental degradation that is likely caused by the same oil drilling that pollutes the Niger Delta. Amina is continually associated with the swirling desert sand and is described as walking herself “in and out of dust” (79) which coats her from head to toe: “When a sudden gust—as hot and dry as camel’s breath—threw itself against her, it was the Sahara itself that gritted her eyes, made her cough. Trace elements of that encroaching desert, it collected like salt rind in her tear ducts” (76). Like Nnamdi, whose metaphorical coating in oil represents his reduction to bare life, Amina’s dusting with desert sand signifies her liminal position as one on the brink of disappearance under neoliberalism’s widespread banishment of Others.

Though he features far less prominently in the novel than Amina, the character of Ambrose Littlechild may be read as Amina’s Canadian counterpart and offers further evidence to support the contention that the banishment of Others need not rely on a wide geographical distance between the laws of the sovereign state and those they exclude. Despite living within one of the centres of Western oil production, Ambrose is just as excluded by the neoliberal pursuit of economic growth as Amina. Like her, Ambrose is victimized on account of his failure to conform to neoliberal normativity, only this time he is entirely erased from the narrative. And like Amina, next to nothing is known about his background, save for what is revealed by the police report filed upon the discovery of his still-living body, the victim of immolation by local college students: “No fixed address. Originally a resident of Fort McMurray.

Known to police. A panhandler, bottle picker” (209). Ambrose's homelessness targets him for this act of seemingly exceptional violence, though, as evinced by the reaction of Sergeant Brisebois and the other police officers, such acts are in fact far more exemplary than is at first apparent: “Better call in homicide,’ Brisebois had said, even as EMS attended to the victim” (209). Brisebois is eager to pass Littlechild’s case through the legal system as quickly as possible so as to effectively forget its existence. The reaction of the other officers, who suggest going out for drinks, further emphasizes that Ambrose’s death is business-as-usual. Brisebois’ blasé response, “No, you go. I have to swing by 7-Eleven, pick up some cat food. It’s been a long day” (210), divests the entire crime of any emotion, and highlights the apathy and lack of recognition of Littlechild by the state. Strangely, what does seem to merit attention is the lack of credibility of the witnesses to the crime, who are dismissed as “mad, rambling, and unreliable; street people like Ambrose” (209). In this way, Ambrose’s death is turned into an event without a witness, and without blame, while his existence is reduced to “the reverse silhouette that had been burned onto the flattened cardboard of an alleyway bed: the blackened surface leaving the pale outline of where the body had been lying in a fetal position” (209): in short, the negative space that surrounds his body, which, by virtue of its lack of economic productivity, must be eliminated.

If the Niger River Delta, the Sahel desert, and the back alleys of an unnamed Canadian city may be understood as spatial embodiments of the state of exception-become-rule in which neoliberal abuses are justified, then the city of Lagos may be read as a space of opportunistic retaliation against the necropolitical order. The text constructs the urban spaces of Nigeria as “exceptional” in their relative wealth compared to the rural villages of the Delta. In the meeting between Laura and Winston’s parents, Winston’s father emphasizes that the city of Lagos “was never colonized. This was British territory, under the dominion of the British monarch. We had the same rights as British citizens. The rest of Nigeria may have been conquered and cobbled together, but not us. Sometimes I think we should separate, create our own city state” (338). However, the narrator suggests that Nigeria’s urban spaces occupy this relatively privileged position through state-sanctioned violence against Others. As Nnamdi’s travelling companion “Igbo Joe” asks, in reference to the capital city of Abuja, “Did you know . . . when slums appear in Abuja, the government bulldozes them down to keep things pretty? An honest man does not have a fighting chance here” (304). Springer calls neoliberalism “a system that most assuredly creates winners and losers” (140), and Igbo Joe’s description of Abuja



highlights the way in which urban spaces carry the potential to both uphold and contest the neoliberal state of exception. Winston, who, as a resident of Lagos, is primarily associated with urban space, takes advantage of living in the neoliberal state of exception by manoeuvring within the confines of the Nigerian legal code in order to carry out the 419 scam against those on neoliberalism's "winning" side.

If, as Harvey writes, capitalist control over space may be achieved by persuading workers "that space is an open field of play for capital but a closed terrain for themselves" (234), then Winston's involvement in the act of internet scamming opens the terrain of virtual space to individuals excluded from economic power. Like the Western oil companies allowed to drill in the Niger River Delta, the 419 scam is effectively sanctioned by law. As ringleader Ironsi-Egobia tells Winston, quoting the Nigerian legal code as though it were a sacred text, "*Offenders can be arrested without a warrant only so long as said offender is found in the act of committing the offense*" (Ferguson 128). It is the letter of the law that articulates the zone of non-responsibility that Winston can use to his advantage. The act this law permits is absolutely contrary to Winston's own system of ethics, as shown by his continuous attempts to set himself apart from what he sees as common criminals:

Hunter. Fisherman. Entrepreneur. Nollywood director. . .  
Criminals lacked finesse. Criminals bashed people on the  
back of their skulls and looted wallets, rummaged through  
purses. Criminals murdered, but guymen seduced.  
Winston didn't take the *mugus'* money; they gave it to  
him, eyes clouded by greed, dazzled by dollars. *And when  
they give you their money, it doesn't count as stealing.* (65)

That the law does not fully succeed in doing away with Winston's cognitive dissonance reinforces Agamben's assertion that there is no fundamental connection between law and ethics, and that the law instead contains within it the capacity to suspend itself in order to justify all sorts of abuses. As in the case of the Western oil companies' exploitation of Ijaw workers, the marginalization of Amina, and the violence perpetrated toward Ambrose Littlechild, the lawlessness built into the Nigerian legal code also has a spatial element, though in this case it is the virtual aspect of this space and the anonymity it affords that allows for the 419 scam to take place. The online environment becomes the site of Winston's exercise of power against individuals like Laura's father Henry, who, by virtue of his exclusion from the protection of Nigerian law, becomes an analogue of the *homo sacer*. The

text's first description of Laura's father comes on page 3, where his body, pulled from the wreckage of a fatal car accident, is referred to as "something that had once been a man." Like the individuals of the Niger River Delta who come to occupy a liminal space on the verge of erasure, Laura's father is reduced to slowly vanishing traces read in the packed snow of the accident scene, in bank statements, and on his computer's memory, emerging like a "[ghost] from the hard drive. Email after email. Afterimages. Trails in the ether" (49). That the 419 scam is largely viewed as retaliation against a legacy of injustice sanctioned by the sovereign power is made clear when the airport EFCC officer Mr. Ribadu tells Laura upon her arrival in Nigeria that "[w]hen it comes to obtaining wealth through false pretenses, the white man is still the expert. I'm afraid the black man is an amateur when it comes to 419ing others. One might say, my entire country was obtained under false pretenses" (304). The 419 scam, its intimate connection with the law, and its mirroring of the sort of erasure enacted by the oil companies' exploitation ruptures any supposed link between law and ethics, and shows the law to be little more than a means of maintaining sovereign power through economic gain.

Since Ferguson's novel is one with an unusually large global reach, intertwining Canadian and Nigerian plots and characters in ways that seem to mirror each other, it is worth considering what this rupture to the relationship between law and ethics in *419* means in a broader discussion of space – that is, space on a global scale. While Doreen Massey advocates thinking about places as "articulated moments in networks of social relations" that offer "a sense of place which is extroverted, which includes a consciousness of its links with the wider world, which integrates in a positive way the global and the local" (154), today, when social relations are increasingly stretched out over space, the lives of peoples whose exclusion by the law may once have taken place out of sight are made to intertwine with the lives of those on the "winning side" of neoliberalism, complicating any attempt at positive integration of the local and the global. While ethical responsibility may seem implicit in any consideration of the law within a closed system, globalization and the virtualization of social relations via the internet bring the law into contact with the zones of non-responsibility on which it depends, foregrounding Agamben's assertion that the concept of responsibility is always in fact "irremediably contaminated by law" (*Remnants* 20). Agamben goes on to argue that "as long as the state of exception and the normal situation are kept separate in space and time, as is usually the case, both remain opaque, though they secretly institute each other. But as soon as they show their complicity, as happens more and more often today, they illuminate each other, so to speak, from

the inside” (50-51). By intertwining the fates of Winston, Nnamdi, Amina, and Laura, Ferguson’s text reflects a global system of exchange that brings previously distinct zones of non-responsibility into proximity, in a way that illuminates how the state of exception and the normal situation secretly institute each other as Agamben describes.

One may wonder what is to be learned from a text that seems to offer so little by way of redemption: Nnamdi is killed, and Laura returns to Canada with a partial repayment of her father’s money only to wire it all back to Nigeria to pay for Amina’s passage to Canada, though Amina has in fact been pocketing the transfers the entire time. If this is a story of the local meeting the global, then none of the outcomes of this encounter seem particularly promising. But what the 419 scam as a form of retaliation against the state of exception shows is that beneath the seemingly unrelenting tides of globalization lie forms of local resistance that work against the idea of neoliberalism as a political inevitability. Harvey states that “the incentive to create the world market, to reduce spatial barriers, and to annihilate space through time is omni-present,” and that “innovations dedicated to the removal of spatial barriers . . . have been of immense significance in the history of capitalism, turning that history into a very geographical affair” (232). By opening virtual space to individuals excluded from sovereign power, both Winston’s and Amina’s use of the 419 scam brings to light the ways in which the removal of such spatial barriers for the purposes of maintaining sovereign power may also contain the seeds of resistance against it. The connection thus established between these zones of non-responsibility is crucial to building what Springer identifies as “conceptual linkages between the violence occurring in multiple sites undergoing neoliberalization,” and to identifying “threads of commonality within these diverse spaces so that an emancipatory agenda of transnational scope may potentially begin to emerge” (136). In showing the interconnections among the lives of his Canadian and Nigerian characters, Ferguson identifies commonalities between geographically disparate individuals that permeate the zones of non-responsibility upon which the law relies, demonstrating how neoliberalization, “inasmuch as it claims a global domain[,] . . . implicates *all of humanity* in a particular ‘moment’, a moment of abandonment wherein the social relations that afford privilege to the few and privation to the many are the very same social relations that occasion violence” (137, emphasis added). In so doing, Ferguson’s novel moves toward opening up a space for the kind of emancipatory agenda Springer calls for: one in which responsibility is untethered from law and reconfigured as an aspect of our common humanity.

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