### T

#### Interp- Restriction means ban

City of Northglenn 11 CHAPTER 11 CITY OF NORTHGLENN ZONING ORDINANCE ARTICLE 5 RULES OF CONSTRUCTION – DEFINITIONS <http://www.northglenn.org/municode/ch11/content_11-5.html>, mmm/uco

Section 11-5-3. Restrictions. As used in this Chapter 11 of the Municipal Code, the term "restriction" shall mean a prohibitive regulation. Any use, activity, operation, building, structure or thing which is the subject of a restriction is prohibited, and no such use, activity, operation, building, structure or thing shall be authorized by any permit or license.

#### Violation- Plan on limits power does not ban it.

1. Voter-

Limits- millions of tinkering affs are possible, only total ban provides a clear limit on the topic

Ground- small limits on presidential power make the topic bidirectional and kill the heart of the topic.

#### T should be evaluated under competing interpretations.

### CP

#### Text: All detainees held indefinitely by the United States government should be released to a location of their choosing.

#### CP solves the entirety of the AFF

Chelala & Garro 6 [Cesar, international public health consultant, & Alejandro, professor of Comparative Law at Columbia University, “Guantanamo’s Ethical, Medical Challenges,” 29 March 2006, <http://old.cageprisoners.com/articles.php?id=13114>] // myost

NEW YORK: The United Nations recommendation that the United States should release all detainees being held at the detention centre in Guantanamo Bay is just one in a long and widespread series of criticisms of the war conducted by the Bush administration against terrorism. The fate of the Guantanamo prisoners is among the most serious ethical and medical challenges now facing the US. One of the main arguments for denying constitutional protection to the Guantanamo prisoners rests on the allegation that Guantanamo is in Cuba, off American soil. Yet, respect for basic human dignity fostered by the Bill of Rights is not limited by nationality and territory. And if the US Constitution were not enough, international human rights law (customary and treaty-based), extends such protection. While the Bush Administration is adamant in its rejection of the UN recommendation, and federal district and circuit courts of appeal do not speak with one voice on behalf of human dignity, a British judge recently allowed three British prisoners at Guantanamo to pursue legal action for their release. Judge Andrew Collins’ position on this issue is in line with that of the European Parliament that in Strasbourg, France, which also condemned the treatment of prisoners at Guantanamo and renewed its calls for the detention centre to be closed. While legal condemnation awaits the final word of a Supreme Court or supranational tribunal with enforcing capabilities, the inhumane treatment of prisoners poses a more immediate ethical pronouncement from the medical profession. The UN report confirms that prisoners were subjected to cruel and inhuman treatment, including forced feedings to hunger strikers, painfully jabbing food tubes through their noses. These practices amount to torture, according to the International Committee of the Red Cross (ICRC) and Physicians for Human Rights has consistently stated that force feeding of hunger strikers violates standards of medical ethics.

### Cap

#### The plan’s deployment of legal reform does not limit sovereign power, but rather reinforces the power of exception which legitimizes abuses in the first place

Kohn 6 [Margaret, assistant professor of political science at the University of Florida-Gainesville, “Bare Life and the Limits of the Law,” *Theory and Event* 9.2 (2006): Project Muse] // myost

6. At this point it should be clear that Agamben would be deeply skeptical of the liberal call for more vigorous enforcement of the rule of law as a means of combating cruelties and excesses carried out under emergency powers. His brief history of the state of exception establishes that the phenomenon is a political reality that has proven remarkably resistant to legal limitations. Critics might point out that this descriptive point, even if true, is no reason to jettison the ideal of the rule of law. For Agamben, however, the link between law and exception is more fundamental; it is intrinsic to politics itself. The sovereign power to declare the state of exception and exclude bare life is the same power that invests individuals as worthy of rights. The two are intrinsically linked. The disturbing implication of his argument is that we cannot preserve the things we value in the Western tradition (citizenship, rights, etc.) without preserving the perverse ones. 7. Agamben presents four theses that summarize the results of his genealogical investigation. (1) The state of exception is a space devoid of law. It is not the logical consequence of the state's right to self-defense, nor is it (qua commissarial or sovereign dictatorship) a straightforward attempt to reestablish the norm by violating the law. (2) The space devoid of law has a "decisive strategic relevance" for the juridical order. (3) Acts committed during the state of exception (or in the space of exception) escape all legal definition. (4) The concept of the force-of-law is one of the many fictions, which function to reassert a relationship between law and exception, nomos and anomie. 8. The core of Agamben's critique of liberal legalism is captured powerfully, albeit indirectly, in a quote from Benjamin's eighth thesis on the philosophy of history. According to Benjamin, (t)he tradition of the oppressed teaches us that the 'state of exception' in which we live is the rule. We must attain a concept of history that accords with this fact. Then we will clearly see that it is our task to bring about the real state of exception, and this will improve our position in the struggle against fascism. (57) 9. Here Benjamin endorses the strategy of more radical resistance rather than stricter adherence to the law. He recognizes that legalism is an anemic strategy in combating the power of fascism. The problem is that conservative forces had been willing to ruthlessly invoke the state of exception in order to further their agenda while the moderate Weimar center-left was paralyzed; frightened of the militant left and unwilling to act decisively against the authoritarian right, partisans of the rule of law passively acquiesced to their own defeat. Furthermore, the rule of law, by incorporating the necessity of its own dissolution in times of crisis, proved itself an unreliable tool in the struggle against violence. 10. From Agamben's perspective, the civil libertarians' call for uniform application of the law simply denies the nature of law itself. He insists, "From the real state of exception in which we live, it is not possible to return to the state of law. . ." (87) Moreover, by masking the logic of sovereignty, such an attempt could actually further obscure the zone of indistinction that allows the state of exception to operate. For Agamben, law serves to legitimize sovereign power. Since sovereign power is fundamentally the power to place people into the category of bare life, the law, in effect, both produces and legitimizes marginality and exclusion.

#### The construction of security threats are not based in material reality, and instead are a move to sacrifice the Other while enabling a permanent state of emergency

Muller 9 [Benjamin J., Associate Professor of Political Science at King’s University College of the University of Western Ontario in Canada, “(Dis)qualified bodies,” *Securitizations of Citizenship*, ed. Peter Nyers, p. 79-82] // myost

Particularly since the events of 11 September 2001 and subsequent ‘wars on terror’, there has been a dramatic — and often draconian — securitization of the politics of borders and bodies (Andreas and Biersteker, 2003, Bigo, 2001, 2002, Huysmans, 1995, Nyers, 2003). In this context, securitization is often associated with criminalization, and a heightened use of what Peter Nyers terms ‘technologies of control (such as detention) and strategies of exclusion (such as deportation)' (Nyers, 2003, p. 169). (critical security studies, whether engaging notions of ‘securitization’ and societal security (see Buzan et al., 1998, Buzan and Waever, 2003, Waever, 1995, Waever et al., 1993), or broader critical understandings of security, (see Krause and Williams, 1997, Lipschutz, 1995) is astute to question security’s dependence on insecurity, and its role in claims about the possibility or impossibility of politics itself (Walker, 1997). In his critical reflection on security’s claim to universality, Anthony Burke suggests; It is to see security as an interlocking system of knowledge, representations, practices, and institutional forms that imagine, direct, and act upon bodies, spaces and flows in certain ways — to see security not as an essential value, but as a political technology. (Burke, 2002, p. 2) For Burke, security as a political technology is also a technology of subjectivity, as ‘both a totalizing and individualizing blackmail and promise’ (p. 22), attempting to cope with the emerging problem of governing society as a whole. ‘Governing of society as a whole’ refers directly to Foucault’s claim that all modern politics are biopolitics; biopolitics being the transformation of state power from the power over death to the management of populations and power over life (see Foucault, 1991, 1976, 1995). However, in order to further contextualize claims that citizenship is being ‘securitized’, some analysis of security/securitization, and its relation to governmentality and the Schmittian distinction between friends and enemies is necessary. As this article suggests, the nature and meaning of ‘security’ is itself in question. Coming to terms with this, and actively broadening the agenda of security beyond more conventional preoccupations with the state and its military — most notably towards questions of identity — is what concerns the majority of critical security studies. Securitization theory, as developed by the Copenhagen School, understands security to be a social construct (see Buzan et al., 1998, Buzan and Waever, 2003, Huysmans, 2002, Waever, 1995, Waever et al., 1993). As a result, security is not merely a material or objective ‘reality’, such as the arms race during the Cold War, but is the outcome of social processes, or the sort of ‘interlocking system of knowledge, representation, [and] practices’ to which Anthony Burke refers. Through speech acts, particular issues or practices are represented as threats; ergo, security only exists in relation to insecurity (Burke, 2002, p. 20). This critical notion of security and/or securitization, enables us to consider how citizenship becomes ‘securitized’. The events of 11 September 2001 led to a significant increase in the use of dis- courses (and images) of threat and (in)security in the politics of citizenship and migration, as well as an expanding assault by both governments and media outlets on the citizenship and immigration policies of certain states regarded as ‘soft’ on such matters (UK White Paper, Salter, 2004, Andreas and Biersteker, 2003). As Michael Williams notes, media and government increasingly construct the migrant, refugee, alien, and ‘Other’ as threats to security, or what one might call ‘insecure bodies’, preserving the high status of migration on most states’ security agendas (Williams, 2003, p. 526; see also Isin, 2002). Admittedly, the character of this threat as expressed in the post-Cold War European context by the Copenhagen School has changed (Heisler and Layton-Henry, 1993). Conceptualizing migration as a ‘societal threat’, that challenges existing social, economic and political values of a society remains in the foreground of securitized citizenship and migration politics (Heisler and Layton-Henry, 1993, p. 148). However, these considerations increasingly stand alongside more conventional security concerns, as governments and media outlets continually represent the (alleged) links between ‘slack’ migration and citizenship policy and terrorism.2 The example of asylum in Britain is one among others, such as the Kosovo War, (see Ignatieff, 2000) from which Williams draws in order to argue that securitization is no longer constructed exclusively through linguistic legitimation, but also by ‘acceptable image-rhetorics’ (Williams, 2003, p. 527). Here the mediated representation of the events of 11 September 2001 are exemplary, consistently evoked as justification for the expansive securitization of contemporary political life. In fact, as the discussion of biometrics will indicate, mediated representations of bio-metric technologies often act as their own justification and explanation. These visual securitization acts are a form of ‘cultural governance’ that serve to reinforce the current ‘state of exception’ as the norm (see Shapiro, 2004). Moreover, while these visual securitization acts serve to limit the space of possible politics, images of (bio)agency can also have an important role in the politics of resistance, which I discuss later (see Campbell, 2003). Before moving forward, however, Williams’ concern with Carl Schmitt's legacy in securitization theory deserves further inquiry. According to Carl Schmitt, the political is about antagonism; at its core, the discrimination between friend and enemy. In The Concept of the Political, Schmitt contends that: A world in which the possibility of war is utterly eliminated, a completely pacified globe, would be a world without distinction of friend and enemy, and hence a world without politics. (Schmitt, 1996, p. 35) Furthermore, this discrimination that is the political moment, is bound up with the state, as Schmitt notes: In its entirety the state as an organized political entity decides for itself the friend-enemy distinction. (Schmitt, 1996, pp. 29-30) Elsewhere, Schmitt reaffirms the role of the state in making such discriminations: Sovereign is he who decides on the exception. (Schmitt, 1985, p. 5) The closer antagonisms get to the discrimination between friend and enemy, the more political issues become. According to Williams, securitization theory moves in a similar fashion: any issue can be ‘securitized’ or made into a ‘security issue’, ‘if it can be intensified to the point where it is presented and accepted as an existential threat’ (2003, p. 516). Williams argues further that securitization theory borrows from classical realism’s preoccupation with survival, and it is this logic of security — a logic of existential threat and extreme necessity — that securitization theory shares with Schmitt’s concept of the political (Williams, 2003, p. 516). Finally, and perhaps most importantly, Williams links Schmitt’s decisionist politics of the sovereign with securitization's break from ‘normal politics’. Moreover, this suggests the move to securitize or make an issue into a ‘security issue’, is to draw it into exceptional politics. As Giorgio Agamben points out, politics as the state of exception — that is, the desertion of subjects to a condition of bare life, where their political rights are stripped from them — is increasingly becoming the norm (Agamben 1998, see Diken, 2004). In fact, Agamben himself confronted (or more precisely, decided to avoid) this ‘state of exception’ in the shape of the United States’ relatively new policy towards foreign citizens, requiring ‘data registration’ upon arrival (Agamben, 2004).3 This policy, that Agamben refers to as a ‘biopolitical tattoo’ is part and parcel of the increasingly scarce spaces of politics in this epoch of exceptionalism (Agamben, 2004, p. 169). The importance of the ever-encroaching politics of exception as the norm, is the extent to which the ‘problem’ of the contemporary securitization of citizenship can be read as an attempt to come to terms with the discrimination between friend and enemy. As Didier Bigo points out, another important contribution of securitization theory is highlighting the assimilation of internal and external security or the ‘securitization of the inside’ (Bigo, 2000). Particularly in the context of post- (Cold War Europe and the construction of ‘Schengenland’ - sometimes referred to as ‘Fortress Europe’ — the use of ‘external security agencies’ to cooperate with police looking ‘inside’ for threats, further reinforces claims that the space of citizenship is securitized (Bigo, 2000, p. 171). In the context of regional security strategies (see Buzan and Waever, 2003), and ongoing so—called ‘wars on terror’, the threat is constructed as a stateless, faceless enemy, for which we (must) search both inside and outside. Furthermore, as Derrida's examination of Schmitt insists, the existence of the political is premised upon the practical identification of the enemy (Derrida, 1997, p. 116). This article proceeds by suggesting that faced with the contemporary challenges of making this practical identification, the securitization of citizenship, or what I call identity management, creates the conditions of possibility for introducing biometric technologies into contemporary citizenship.

#### The AFF’s depoliticization of law is symptomatic of a nihilism that deprives life of all meaning

Mills 4 [Catherine, Lecturer in Philosophy at the University of New South Wales, “Contingency, Responsibility and the Law: A Response,” *borderlands e-journal* 3.1 (2004): http://www.borderlands.net.au/vol3no1\_2004/mills\_contingency.htm] // myost

8. It is precisely this recognition that underpins Giorgio Agamben’s critique of the increasing juridification of life: it is not merely that the law has been overextended in its domain of operation, such that it encroaches on more and more domains of our lifeworld, but that it has come to be wholly identified with life itself. Hence, in reference to a conflict between Scholem and Benjamin over the status of the law in Kafka, Agamben argues that the biopolitical status of law, in which law is indistinguishable from life itself, means that law is effectively ‘in force without significance’ (Agamben 1997: 51). By this, he means that in losing all transcendence the law becomes wholly identified with life and operates solely through the structure of the ban, such that the law simultaneously applies and suspends itself in its application. Agamben’s argument here, then, is not merely one of degree; it is not simply that he sees the extension of the law as been more complete than other critics of juridification. Rather, the identification of life and law has the consequence that the form of law itself is transformed. In taking up Benjamin’s insight that the exception has become the rule, he effectively posits a crisis in legitimation of the law. This crisis takes the form of nihilism, and this he argues is the danger that is becoming increasingly evident in the violence that so frequently haunts modern democracies. 9. Consequently, taking aim at his more deconstructive contemporaries, Agamben argues that the task of contemporary thought in not simply to recognize the state of abandonment in which we persist, but to overcome it. Within this he claims that it is necessary to distinguish between two forms of nihilism. (Agamben 1999a: 171) The first, which he calls ‘imperfect nihilism’ nullifies the law but maintains ‘the Nothing [that is, the emptiness of the law] in a perpetual and infinitely deferred state of validity’. (Think here of Derrida and particularly his essays on messianism and the force of law; see Mills, 2003 and forthcoming). The second form, which he calls ‘perfect nihilism’ overturns the Nothing, and does not even permit the survival of validity beyond meaning; perfect nihilism, as Benjamin states, ‘succeeds in finding redemption in the overturning of the Nothing’ (cited in Agamben 199a:171). The task that contemporary thought is faced with then is the thought of perfect nihilism, which overturns the law in force without significance that characterizes the ‘virtual’ state of exception of Western politics. 10. Importantly, the overturning of the law does not simply mean instituting a new law, and nor does it mean reinstating the lost law of a previous time ‘to recuperate alternative heredities’. (Agamben 1999b: 153) Both of these modes of progression would merely repeat the political aporia of abandonment that underpins bio-sovereign violence. Rather, the task of redeeming life from imperfect nihilism requires both the destruction of the past and the realization of ‘that which has never been’. (see Agamben 1999a, 1999b; Heller-Roazen 1999) As Thomas Carl Wall (1999: 156) writes of Agamben’s conception of the coming community, ‘without destiny and without essence, the community that returns is one never present in the first place.’ Similarly, it is only the inauguration of that which has never been, the not having been of the past, that will suffice to overturn the Nothing maintained by the law in force without significance and thereby restore human life to the unity of bios and zoe, a unity that itself has never yet been. As Agamben states ‘this – what has never happened – is the historical and wholly actual homeland of humanity’. (Agamben 1999b: 159; also see Agamben 1999c) 11. It is also in this context that Agamben’s rejection of Foucault’s gesture toward a new economy of bodies and pleasures takes on its real significance, for he sees this gesture as merely repeating the aporia of the sovereign ban and the bloody violence that attends it. Against Foucault’s provocative remarks at the end of History of Sexuality (Vol. 1) , Agamben argues that ‘the body is always already a biopolitical body and bare life, and nothing in it or the economy of its pleasure seems to allow us to find solid ground on which to oppose the demands of sovereign power’. (Agamben 1998: 187) In doing so, he rejects any notion of immanent resistance and argues instead for the necessity of a messianic event that disrupts the current nihilistic order without being of it. Consequently, then, he posits the necessity of the inauguration of a 'happy life', or ‘form-of-life’, understood as life restored to an original unity that has never been. For Agamben, happy life doesn’t partake in the distinction between natural life and political life, and has instead ‘reached the perfection of its own power and its own communicability’; (Agamben 2000: 114-115) happy life is life lived in the experience of its own unity, its own potentiality of ‘being-thus’. (Agamben 1993) As such, happy life amounts to the perfect nihilism necessary to the fulfilment of the task of overturning the law, which brings about the ‘small displacement’ that separates the messianic from our time. (Agamben 1999:164)

#### The alternative is the whatever being. Refusing all forms of political identity is the only way to break law’s hold over life.

Caldwell 4 [Anne, Assistant Professor of Political Science at the University of Louisville, “Bio-Sovereignty and the Emergence of Humanity,” *Theory & Event* 7.2 (2004): Project Muse] // myost

VI. Whatever Being: Life Beyond Sovereignty 48. Can we imagine another form of humanity, and another form of power? The bio-sovereignty described by Agamben is so fluid as to appear irresistible. Yet Agamben never suggests this order is necessary. Bio-sovereignty results from a particular and contingent history, and it requires certain conditions. Sovereign power, as Agamben describes it, finds its grounds in specific coordinates of life, which it then places in a relation of indeterminacy. What defies sovereign power is a life that cannot be reduced to those determinations: a life "that can never be separated from its form, a life in which it is never possible to isolate something such as naked life." (2.3). In his earlier Coming Community, Agamben describes this alternative life as "whatever being." More recently he has used the term "forms-of-life." These concepts come from the figure Benjamin proposed as a counter to homo sacer: the "total condition that is 'man'." For Benjamin and Agamben, mere life is the life which unites law and life. That tie permits law, in its endless cycle of violence, to reduce life an instrument of its own power. The total condition that is man refers to an alternative life incapable of serving as the ground of law. Such a life would exist outside sovereignty. Agamben's own concept of whatever being is extraordinarily dense. It is made up of varied concepts, including language and potentiality; it is also shaped by several particular dense thinkers, including Benjamin and Heidegger. What follows is only a brief consideration of whatever being, in its relation to sovereign power. 49. "Whatever being," as described by Agamben, lacks the features permitting the sovereign capture and regulation of life in our tradition. Sovereignty's capture of life has been conditional upon the separation of natural and political life. That separation has permitted the emergence of a sovereign power grounded in this distinction, and empowered to decide on the value, and non-value of life (1998: 142). Since then, every further politicization of life, in turn, calls for "a new decision concerning the threshold beyond which life ceases to be politically relevant, becomes only 'sacred life,' and can as such be eliminated without punishment" (p. 139). 50. This expansion of the range of life meriting protection does not limit sovereignty, but provides sites for its expansion. In recent decades, factors that once might have been indifferent to sovereignty become a field for its exercise. Attributes such as national status, economic status, color, race, sex, religion, geo-political position have become the subjects of rights declarations. From a liberal or cosmopolitan perspective, such enumerations expand the range of life protected from and serving as a limit upon sovereignty. Agamben's analysis suggests the contrary. If indeed sovereignty is bio-political before it is juridical, then juridical rights come into being only where life is incorporated within the field of bio-sovereignty. The language of rights, in other words, calls up and depends upon the life caught within sovereignty: homo sacer.

### CASE

### Advantage 1

#### International law doesn’t solve, the fact that genocides are still happening in Africa and Russia’s invasion of Georgia, and US invasion of Iraq.

#### International law is too weak to prevent conflict

AEI 5 (American enterprise inst, april, book review, inst for public policy research, “The Limits of International Law” Jack L. Goldsmith and Eric A. Posner, <http://www.angelfire.com/jazz/sugimoto/law.pdf>) "As the twentieth century ended, optimism about international law...degradation and human rights abuses"

 As the twentieth century ended, optimism about international law was as high as it had ever been—as high as it was at the end of World War I and World War II, for example. We can conveniently use 9/11 as the date on which this optimism ended, but there were undercurrents of pessimism even earlier. The UN played a relatively minor role in bringing the conflicts in the Balkans to the end. Members of the Security Council could not agree on the use of force in Kosovo, and the NATO intervention was thus a violation of international law. The various international criminal tribunals turned out to be cumbersome and expensive institutions, they brought relatively few people to justice, and they stirred up the ethnic tensions they were meant to quell. Aggressive international trade integration produced a violent backlash in many countries. Treaty mechanisms seemed too weak to solve the most serious global problems, including environmental degradation and human rights abuses.

#### I-Law set by the US is ignored

Pederson 8 (Ole, Professor @ Newcastle, <http://internationallawobserver.eu/2008/09/18/fading-influence-of-the-us-supreme-court/>, AD: 7/10/10) jl

It appears that it is not only the [EU](http://internationallawobserver.eu/2008/09/18/a-year-for-europe-maybe-not/) whose authority is fading. Today’s [NY Times](http://www.nytimes.com/2008/09/18/us/18legal.html?_r=1&hp=&adxnnl=1&pagewanted=1&adxnnlx=1221753717-8pdanTsDalyAfCQgzjrVvQ) has a very interesting story on the influence of the US Supreme Court, which is well worth a read. The article states that the number of citations of US Supreme Court cases in other jurisdictions is in decline compared to just ten years ago. There are many reasons for this, according to, inter alia, Thomas Ginsburg of University of Chicago and Aharon Barak, former president of the Israeli Supreme Court. One reason is the rise in the numbers of constitutional courts elsewhere, which has, through time, created a rich jurisprudence on constitutional law rendering the need to cite US cases less essential. Additionally, US foreign policy may play a part in the diminishing influence of the oldest constitutional court in world. Finally, the reluctance of the US Supreme Court itself to cite foreign law when adjudicating may play a role. This final point is perhaps the most interesting. Whereas European (including the ECJ and the ECtHR), Australian and Canadian courts do not shy away from referring to foreign law, it has always been a sensitive topic in the US where many scholars favour leaving aside foreign law. This approach has its clear democratic justification but as Justice Ruth Bader Ginsberg said in [2006 in an address](http://supremecourtus.gov/publicinfo/speeches/sp_02-07b-06.html) to the South African Constitutional Court:

“[F]oreign opinions are not authoritative; they set no binding precedent for the U.S. judge. But they can add to the store of knowledge relevant to the solution of trying questions. Yes, we should approach foreign legal materials with sensitivity to our differences, deficiencies, and imperfect understanding, but imperfection, I believe, should not lead us to abandon the effort to learn what we can from the experience and good thinking foreign sources may convey.”

#### The call for international law turns the case—invites colonial intervention and violence in the name of combating rights-denying savages

Mutua 1 [Makau, Dean of the University at Buffalo Law School, “Savages, Victims, and Saviors: The Metaphor of Human Rights,” *Harvard International Law Journal* 42.1 (Winter 2001): 201-245] // myost

The impulses to conquer, colonize, save, exploit, and civilize non-European peoples met at the intersection of commerce, politics, law, and Christianity and evolved into the Age of Empire. As put by John Norton Pomeroy, lands occupied by "persons who are not recognized as belonging to the great family of states to whom international law applies" or by "savage, barbarous tribes" belonged as of right upon discovery to the "civilized and Christian nation."140 The savior-colonizer psyche reflects an intriguing interplay of both European superiority and manifest destiny over the subject. The "othering" project degrades although it also seeks to save. One example is the manipulative manner in which the British took over large chunks of Africa. Lord Lugard, the British colonialist, described in denigrating language a "treaty-making" ceremony in which an African ruler "agreed" to "British protection." He described this ceremony with both parties "[s]eated cross-legged on a mat opposite to each other on the ground, you should picture a savage chief in his best turn-out, which consists probably of his weapons of war, different chalk colourings on his face, a piece of the skin of a leopard, wild cat, sheep or ox."141 As put by a European missionary, the "Mission to Africa" was "the least that we [Europeans] can do . . . to strive to raise him [the African] in the scale of mankind."142 Anghie notes that the deployment of denigrating, demeaning language is essential to the psyche of the savior. He writes: The violence of positivist language in relation to non-European peoples is hard to overlook. Positivists developed an elaborate vocabulary for denigrating these peoples, presenting them as suitable objects for conquest, and legitimizing the most extreme violence against them, all in the furtherance of the civilizing mission - the discharge of the white man's burden. 143 Human rights law continues this tradition of universalizing Eurocentric norms by intervening in Third World cultures and societies to save them from the traditions and beliefs that it frames as permitting or promoting despotism and disrespect for human rights itself. While it is incorrect to equate colonialism with the human rights movement, at least in terms of the methods of the two phenomena, it is not unreasonable to draw parallels between them with respect to some of their motivations and purposes. Colonialism was driven by ignoble motives while the human rights movement was inspired by the noblest of human ideals. However, both streams of historical moment are part of a Western push to transform non-European peoples. Louis Henkin celebrates the embrace of human rights by diverse states across the globe as the triumph of the post-1945 era: Ours is the age of rights. Human Rights is the idea of our time, the only political-moral idea that has received universal acceptance. The Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948, has been approved by virtually all governments representing all societies. Human rights are enshrined in the constitutions of virtually every one of today's 170 states--old states and new; religious, secular, and atheist; Western and Eastern; democratic, authoritarian, and totalitarian; market economy, socialist, and mixed; rich and poor, developed, developing, and less developed. Human rights is the subject of numerous international agreements, the daily grist of the mills of international politics, and a bone of continuing contention among superpowers.144

#### Most recent reports indicate there are no indefinite detentions now.

IPS, 2013 (Inter Press Service, “US Claims No Indefinite Detention at Guantanamo”, http://www.ipsnews.net/2013/03/u-s-claims-no-indefinite-detention-at-guantanamo/)

In an unusual public testimony, the U.S. government has publicly stated that no “indefinite detention” is taking place among detainees at the military prison in Guantánamo Bay.¶ “The United States only detains individuals when that detention is lawful and does not intend to hold any individual longer than is necessary,” Michael Williams, a senior legal advisor for the State Department, told a hearing at the Inter-American Commission on Human Rights.

#### Can’t release – National Defense Authorization Act

Seligson 2013 (Susan, Reporter BU Today, “Guantanamo: the Legal Mess Behind the Ethical Mess”, <http://www.bu.edu/today/2013/gitmo-the-legal-mess-behind-the-ethical-mess/>, Vance)

Second, in 2010 the Obama administration announced that four dozen of the Guantanamo detainees could not be prosecuted or released, but would remain in indefinite detention without charge or trial. And third, the administration has claimed that it cannot close the facility because of Congress’ passage of the [National Defense Authorization Act](http://www.govtrack.us/congress/bills/112/hr4310/text) (NDAA), which Obama himself signed. The act prohibits transfer of any Guantanamo detainee to a country where returnees have reengaged in terrorist activity and requires certification from the receiving country that it has taken steps to prevent such activity. The administration has the authority to waive such restrictions; however, no prisoner has been released under the NDAA restrictions.

#### Detainee would get sent to U.S. Supermax prisons which make Gitmo look like a daycare

Kaplan 2009 (Frank, Slate's "War Stories" columnist and author of the book, [The Insurgents: David Petraeus and the Plot to Change the American Way of War.](http://www.amazon.com/gp/product/1451642636/ref%3Das_li_ss_tl?ie=UTF8&camp=1789&creative=390957&creativeASIN=1451642636&linkCode=as2&tag=slatmaga-20) “There Are Already 355 Terrorists in American Prisons”, <http://www.slate.com/articles/news_and_politics/war_stories/2009/05/there_are_already_355_terrorists_in_american_prisons.html>, Vance)

According to data provided by Traci L. Billingsley, spokeswoman for the U.S. Bureau of Prisons, federal facilities on American soil currently house 216 international terrorists and 139 domestic terrorists. Some of these miscreants have been locked up here since the early 1990s. None of them has escaped. At the most secure prisons, nobody has ever escaped, period.¶ As recited in Congress and on cable-news talk shows, the fears of moving Gitmo prisoners here seem to be these: that the terrorist prisoners might escape (statistics to the contrary be damned), that they might convert their fellow inmates with jihadist propaganda, that other members of al-Qaida might infiltrate the surrounding communities (to do what—spring them?), or that their presence might sow panic in those communities.¶ Maybe these people don't understand what life is like in these "supermax" prisons. Take[ADX Florence](http://www.cnn.com/2007/US/09/13/supermax.btsc/index.html), the supermax in Colorado—"[the Alcatraz of the Rockies](http://www.timesonline.co.uk/tol/news/world/us_and_americas/article713240.ece)"—that serves as the home to Omar Abdel-Rahman, the "blind sheikh" who organized the 1993 World Trade Center bombing; Zacarias Moussaoui, one of the Sept. 11 plotters; Richard Reid, the shoe-bomber; Theodore Kaczynski, the "Unabomber"; and Terry Nichols, who helped plan the Oklahoma City bombing, to name a few.¶ These are all truly dangerous people, but it's not as if they run into one another in the lunch line or the yard. There is no lunch line; there is no yard. Most of the prisoners are kept in solitary confinement for 23 hours a day. For one hour, they're taken to another concrete room, indoors, to exercise, by themselves. Their only windows face the sky, so they have no way of knowing even where they are within the prison. Phone calls to the outside world are banned. Finally, the prison is crammed with cameras and motion detectors. Compartments are separated by 1,400 remote-controlled steel doors; the place is surrounded by 12-foot-high razor-wire fences; the area between the wire and the walls is further secured by laser beams and attack dogs.

#### Ending indefinite detention leads to drone strikes and detainment on Navy ships

Wall Street Journal, 2012 (“Obama’s Missing Detainees”, <http://webcache.googleusercontent.com/search?q=cache:CBUgl_mBAk4J:online.wsj.com/article/SB10001424052702304636404577298022672521362.html+&cd=1&hl=en&ct=clnk&gl=us>, April 3)

These ought not to be mutually exclusive. Sometimes the military has no choice but to kill from 10,000 feet. But a dead terrorist is also one that tells no tales. He can't be interrogated to obtain information about his co-conspirators, financiers, state sponsors or plans for future attacks.¶ This is creating a potentially dangerous lapse in U.S. knowledge about terrorist threats that may pose dangers down the road. The source of the problem is Mr. Obama's bias against terrorist detention, which needs correcting by Congress or the next President.¶ The record since 2009 speaks for itself. Outside the war zones of Iraq and Afghanistan, intelligence sources say the U.S. has captured a single suspect, the Somali Ahmed Abdulkadir Warsame. Except for the bin Laden operation, U.S. special forces have refrained from raids against Taliban or al Qaeda figures in Pakistan. Meanwhile, Mr. Obama ramped up drone strikes by a factor of 10.¶ The U.S. is reluctant to detain terrorists for a simple reason: Mr. Obama has rejected the best options to incarcerate them. His campaign promise to close down Guantanamo has been frustrated by reality, but he refuses to put new prisoners there. He closed down the CIA's secret detention sites and its enhanced interrogations unit. And he has ruled out the rendition of terrorists to third countries, a practice used by the Bush and Clinton Administrations.¶ Parwan prison at the U.S. base in Bagram, Afghanistan was also once a detainee destination. Among the 3,000 prisoners there, 40-odd foreigners are some of the most dangerous enemy combatants in U.S. hands. Yet military officials say that no one captured outside Afghanistan has been moved there in the last two years.¶ The case of Warsame is instructive, and not in a good way. After the al Qaeda ally was captured last April, the Obama Administration refused to send him to Gitmo. Instead, he was put aboard a U.S. Navy ship in international waters for two months while he was interrogated. He was finally sent to New York and indicted on terrorism charges in a U.S. civilian court.¶ Think about it: Team Obama is so afraid of appearing to favor Dick Cheney-style detention policies that it is willing to hold a detainee for weeks on the high seas. Whatever else you do, don't call the ship a "secret" prison.¶ Mr. Obama also replaced CIA interrogators with a new inter-agency group under the FBI called the High-Value Interrogation Group, or HIG. Unlike Israel's specialized units often cited as a model, the U.S. interrogators are detailed from various agencies for temporary tours. The HIG, which has been used in only a couple of cases, deserves a permanent staff. Most interrogations in the Obama years have been done by the Joint Special Operations Command, which killed bin Laden and handles suspects at Bagram. This is not a job that can be left only to the military, and the CIA needs to get back in the action.¶ A bipartisan group of Senators has tried to improve this Obama policy, and in last year's defense bill included language that required al Qaeda or affiliated terrorists to be held in military custody. But Mr. Obama—echoing Mr. Cheney's views of executive power—issued a statement when signing the bill that he would never let U.S. citizens be detained or interrogated under the law of war.¶ And last month he issued a series of waivers that would make the transfer of any terrorist suspect to military custody virtually impossible. This political aversion defies logic: The President asserts that the military can legally kill an American citizen like al-Awlaki, but he won't let the military detain him. Congress should keep pressing this issue, even if it means courting a Presidential veto. Mr. Obama will eventually have to bend.¶ Drones are useful weapons in the war on terror, but surveillance and interrogation are as important. The Bush Administration was able to capture the 9/11 plotters thanks to its interrogation of Abu Zubaydah, who led to Ramzi bin al Shibh, who led to Khalid Sheikh Mohammed, and so on. Even the killing of bin Laden can be traced to information provided by KSM.¶ \*\*\*¶ Sooner or later the interrogation trail that began thanks to Bush policies will end. If the Obama Administration kills every terrorist with missiles from the sky because it fears political embarrassment from holding them, we might miss a warning about the next terror attack.¶ Al Qaeda is weakened, but it is far from defeated. Offshoots are popping up or reviving in Yemen, Somalia, Nigeria and Iraq. U.S. counterterrorism officials need the means and the political support to capture, interrogate and hold the next generation of bin Ladens.

#### Released Gitmo detainees will be sent back to Yemen

Baron 13 [Adam, reporter for McClatchy Newspaper based in Yemen, “Yemen Wants Their Guantanamo Detainees Back,” May 2013, <http://www.vice.com/read/yemen-wants-their-guantanamo-detainees-back>] // myost

It’s a mistake, however, to say that the detainees have completely disappeared from most Yemenis’ minds. Of the 166 detainees who remain held without charge in Guantanamo Bay, 91 are Yemeni. It’s not quite as popular an issue as the drone strikes, but Yemenis still bring up Guantanamo on a nearly weekly basis. Many see the legal limbo of their fellow countrymen as a kind of tragicomic joke. Recently in Sanaa, dozens of family members of Guantanamo detainees gathered at the American embassy to protest their internment. “We demand that the American government release all detainees,” one father said, holding up a poster of his son. “The Yemeni government should do everything in its power to pressure them. Does Obama think that there’s a Yemeni exception when it comes to human rights?” However, those working for Yemen’s human rights organizations know that a couple of small protests won’t shut down Guantanamo. After the demonstration, I sat with Mohamed al-Ahmadi, the legal coordinator of Munthamet al-Karama, a human rights organization, in a cab, listening to him chat with the driver. “Are they all actually al Qaeda?” the driver asked. “Some are, some aren’t,” Ahmadi responded. Then he turned to me. “But your country has a legal system, doesn’t it?” Yemenis tend to focus on the contradiction between the “American” values of justice, due process, and concern for human rights, coupled with the government’s willingness to hold more than a hundred people in secret for years without trial. Yemeni officials have harped on this incongruity repeatedly. Still, they stress, they are just beginning a long process of bringing the detainees home. Hooriya Mashhour, the Yemeni minister of human rights, hopes to lead an official delegation to Guantanamo soon. In our conversation, she stressed that anything other than the repatriation would be unacceptable. “They don’t just need to be brought home,” she said, noting the challenges detainees would face in finding jobs and reckoning with the psychological effects of their detention. “They need to be rehabilitated.” For US officials, the key concern isn’t the difficulty of reintegrating detainees into Yemeni society: it’s the detainees reintegrating into terrorist networks. Repatriations of Yemeni citizens held at Guantanamo were frozen in 2008 after the botched Christmas Day bomb attempt by Omar Abdul Mutallab, a Nigerian citizen believed to have received al Qaeda training while he was studying Arabic in Yemen. Since 2008, Yemen has only become more volatile: an Arab Spring-inspired uprising led to the country’s first transfer of power in 33 years and the central government remains rather weak. Many American politicians and analysts view sending the detainees back to an unstable country with an active al Qaeda presence as idiotic.

#### Once repatriated, Yemenis will be tortured

Falkoff 8 [Marc, Center for Constitutional Rights, “Guantánamo Attorneys Say Detainees Will Not Be Tortured If Returned to Yemen,” 12 March 2008, <http://www.ccrjustice.org/newsroom/press-releases/guant%C3%A1namo-attorneys-say-detainees-will-not-be-tortured-if-returned-yemen>] // myost

Yemeni citizens now make up the largest share of the population at Guantánamo – more than one-third of all prisoners – because the United States and Yemen governments have failed to reach agreement on terms for the men's repatriation. The U.S. government has claimed that the diplomatic stalemate is due in part to the Yemen government's refusal to sign a statement indicating it will not torture or abuse Yemeni citizens upon their return to Yemen. In addition, the U.S. government has told Yemen that without such an assurance, lawyers will seek to stop any transfer of their clients from Guantánamo to Yemen, an assertion that the attorneys counter in today’s statement.

#### The plan releases murders and torturers who will act again – turns the aff.

Gordon 2013 (J.D. UT- San Diego, “Guantánamo prisoners have no place in a prisoner swap”, <http://www.utsandiego.com/news/2013/Jun/24/guantanamo-prisoners-swap-obama/>, Vance)

In his rush to pull out of Afghanistan, close Guantánamo and declare the fight against “violent extremists” over, President Obama is again pressing for Taliban peace talks just days after releasing a complete list of Gitmo detainees, finally identifying 46 of 166 men held in indefinite detention.¶ Though his broader strategy is highly suspect, the timing is impeccable. Orchestrating peace with the Taliban and efforts to dismantle indefinite detention at Gitmo naturally go hand in hand.¶ To help kick-start the process, the Taliban want to trade five Gitmo detainees who are top leaders for one U.S. soldier, Sgt. Bowe Bergdahl, who went missing from his post near Pakistan in 2009. Any serious people who view the 46 rap sheets available on the Internet finally will understand why these men are so dangerous, why trying them in our courts under existing laws and rules of evidence won’t work, and how they have killed thousands of people and will kill again if released.¶ Who are these men in indefinite detention, and how dangerous are they?¶ Mid-senior-level leaders of the Taliban and al-Qaeda, bodyguards to Osama bin Laden, trainers in explosives and suicide missions, terrorist-cell recruiters and spiritual advisers, and those who still swear to kill Americans. Though most are from Afghanistan and Yemen, 10 are from Saudi Arabia, Libya, Kuwait, Morocco, Somalia and Kenya.¶ During the latest round of stalled peace talks with the Taliban in early 2012, one sticking point was the release of five Gitmo detainees who are on the indefinite-detention list.¶ Collectively responsible for killing thousands of people, including U.S. troops and coalition forces, they are a who’s who of Taliban leaders. Among them are Mullah Mohammed Fazl, former Taliban deputy minister of defense, and Khairullah Said Wali Khairkwah, former governor of Herat, Afghanistan. Others may include Mullah Norallah Nuri, former governor of Mazar-e-Sharif, Afghanistan; Abdul Haq Wasiq, former Taliban deputy minister of intelligence; and Muhammad Rahim, a top facilitator and confidant to bin Laden.¶ These are the men Team Obama is thinking about exchanging for releasing Sgt. Bergdahl and other “promises” from the Taliban? Trust us, they say.¶ Yet how can anyone trust a radical Islamic terrorist organization that enabled the al-Qaeda attacks of Sept. 11, 2001, and constituted one of history’s most barbaric regimes?¶ Though the Taliban’s atrocities while ruling Afghanistan were on a smaller scale than those perpetrated by Nazi Germany and the Soviet Union, the beheadings, commonplace acid and stoning attacks on women and girls, “infidels” and anyone else who got in their way was nothing short of medieval.

#### Repatriated Algerians will be targeted and stigmatized once they return home

Kaye 10 [Jeff, psychologist active in the anti-torture movement, “U.S. Deports Guantanamo Prisoner to Possible Torture or Death,” 20 July 2010, <http://my.firedoglake.com/valtin/2010/07/20/u-s-deports-guantanamo-prisoner-to-possible-torture-or-death/>] // myost

Even though 35 year-old Abdul Aziz Naji said he’d rather stay at Guantanamo than be deported to his home country of Algeria, the Obama administration forcibly deported him anyway, despite Mr. Naji’s fears that "he would be targeted by violent groups who would kill him if he refused to join their battle against the country’s government." The U.S. Supreme Court refused to block the deportation in a ruling last week. Now Naji takes on the notoriety and the tragic fate to be the first involuntary transfer from Guantanamo. In the past, the Obama administration was loathe to repatriate prisoners to countries where they feared persecution, as in the case of the Chinese Uighurs. But the administration has refused to do this in the case of the Algerians, despite ample evidence that both the Algerian government and violent opponents of the Algerian government have engaged in torture and killings in an on-again, off-again civil war going back 20 years now.

#### Uighers will be repatriated to Palau where they won’t be able to obtain a living wage

Worthington 12 [Andy, independent journalist, “Life After Guantánamo: The Suffering of the Uighurs in Palau,” 2 July 2012, <http://www.andyworthington.co.uk/2012/02/07/life-after-guantanamo-the-suffering-of-the-uighurs-in-palau/>] // myost

As she explains, both the governments of the US and Palau “acknowledged that the remote island was not durable as a long-term refuge,” and was only “intended as a way station, a means to leave Guantánamo, a temporary solution until another country offered …sustainable resettlement.” However, “That hope has shrivelled,” because, even though Palau “is far from paradise,” and the Uighurs “cannot find work that provides a living wage,” there is “no reasonable prospect of future resettlement” for the men.

### Advantage 2

#### The demand for habeas corpus plays into the hands of sovereign power

Neal 9 (Andrew, wrote a book with Michael Dillon, “Exceptionalism and the Politics of Counter-Terrorism: Liberty, Security and the War on Terror”, Pg. 83-84, Vance)

Agamben takes this radical crisis of rights and extends the analysis in terms of biopolitics. The exclusion of human life deprived of all belonging, citizenship and identity is not simply a paradox, but the hidden paradigm of the political space of modernity’.26 Agamben tackles the rights of man not as a founding achievement of the Enlightenment but as a paradigmatic sign of the further encroachment of sovereign power: It is almost as if starting from a certain point, every decisive political event were double-sided: the spaces, the liberties, and the rights won by individuals in their conflicts with central powers always simultaneously prepared a tacit but increasing inscription of individuals’ lives within the state order, thus offering a new and more dreadful foundation for the very sovereign power from which they wanted to liberate themselves.27 Taking his cue from Foucault, Agamben interprets the crisis of rights as evidence of the increasing confoundedness of classic liberal conceptions of politics. The liberties and rights that are supposed to protect individuals against sovereign oppression and enshrine the subject as sovereign’ do quite the opposite. Liberties and rights cannot be opposed to sovereign exceptionalism because those liberties and rights are already included in the domain of sovereign power. For Agamben, as for Foucault. it is not the rights-bearing citizen that marks the beginning of the modern age but the entry of the bare life’ of the basic human body into political calculations. Agamben demonstrates this argument with a particularly apt reference to habeas corpus — the writ served against the authorities to assert the right against detention without trial which has of course become a key legal battleground regarding counter-terrorist policies in the US and UK. Agamben inverts the conventional meaning of this ‘right’ in order to draw attention to its original ambiguity: the ancient writ that preceded habeas corpus was originally intended to assure the presence of the accused in a trial, rather than the release of a body held without charge.2N As such, Agamben considers that habeas corpus is a deeply ambiguous extension of biopolitical power: ‘Corpus is a two—faced being, the bearer both of subjection to sovereign power and of individual liberties'. Thus Agamben invokes Foucault’s problematization of the ‘sovereign subject’ as both ‘free’ and made subject to sovereign power.30 This double-edged relationship between sovereign power and sovereign subject leads Agamben to posit a reformulation of Schmitt’s ‘Sovereign is he who decides on the exception’,3’ in the claim that In modern biopolitics, sovereign is he who decides on the value or the nonvalue of life as such. Life — which, with the declarations of rights, had as such been invested with the principle of sovereignty — now itself becomes the place of a sovereign decision.32 Agamben considers that the fact of being born is no longer, if indeed it ever was, a case of being ‘born free’, but the beginning of the biopolitical relation of subject and sovereign. Natural man is for Agamben the ‘immediately vanishing ground ... of the citizen’,33 who is included in the nation-state relation of sovereignty by the very fact of being born in its territory. Hence Agamben draws attention to the etymology of the concept of nation’, from nascere — to be born. It is precisely this historical innovation from the French Revolution — that sovereignty should reside in the nation — which inscribed this element of birth in the very heart of the political community’.34 The nation-slate comes to include man in its sphere by the very fact of his birth in its territory, and thus comes to decisively establish its dominion over life at precisely the moment when man’s liberty was meant to be guaranteed.

#### The NEG’s appeal to neutrality and universal animality is a fig leaf to cover more sophisticated modes of exclusion – the attempt to “close the gap” between hu~~man~~ and non-human externalizes violence, turning the ALT

Rasch 3 [William, Professor of Ger~~man~~ic Studies at Indiana University, “Hu~~man~~ Rights as Geopolitics: Carl Schmitt and the Legal Form of American Supremacy,” *Cultural Critique* 54 (Spring 2003): 120-147] // myost

Yes, this passage attests to the antiliberal prejudices of an unregenerate Eurocentric conservative with a pronounced affect for the counterrevolutionary and Catholic South of Europe. It seems to resonate with the apologetic mid-twentieth-century Spanish reception of Vitoria that wishes to justify the Spanish civilizing mission in the Americas.8 But the contrast between Christianity and hu~~man~~ism is not just prejudice; it is also instructive, because with it, Schmitt tries to grasp something both disturbing and elusive about the modern world—namely, the apparent fact that the liberal and hu~~man~~itarian attempt to construct a world of universal friendship produces, as if by internal necessity, ever new enemies. For Schmitt, the Christianity of Vitoria, of Sala~~man~~ca, Spain, 1539, represents a concrete, spatially imaginable order, centered (still) in Rome and, ultimately, Jerusalem. This, with its divine revelations, its Greek philosophy, and its Ro~~man~~ language and institutions, is the polis. This is civilization, and outside its walls lie the barbarians. The humanism that Schmitt opposes is, in his words, a philosophy of absolute humanity. By virtue of its universality and abstract normativity, it has no localizable polis, no clear distinction between what is inside and what is outside. Does hu~~man~~ity embrace all hu~~man~~s? Are there no gates to the city and thus no barbarians outside? If not, against whom or what does it wage its wars? We can understand Schmitt’s concerns in the following way: Christianity distinguishes between believers and nonbelievers. Since nonbelievers can become believers, they must be of the same category of being. To be hu~~man~~, then, is the horizon within which the distinction between believers and nonbelievers is made. That is, hu~~man~~ity per se is not part of the distinction, but is that which makes the distinction possible. However, once the term used to describe the horizon of a distinction also becomes that distinction’s positive pole, it needs its negative opposite. If humanity is both the horizon and the positive pole of the distinction that that horizon enables, then the negative pole can only be something that lies beyond that horizon, can only be something completely antithetical to horizon and positive pole alike—can only, in other words, be inhu~~man~~. As Schmitt says: Only with the concept of the hu~~man~~ in the sense of absolute hu~~man~~ity does there appear as the other side of this concept a specifically new enemy, the inhu~~man~~. In the history of the nineteenth century, setting off the inhu~~man~~ from the hu~~man~~ is followed by an even deeper split, the one between the superhu~~man~~ and the subhu~~man~~. In the same way that the hu~~man~~ creates the inhu~~man~~, so in the history of hu~~man~~ity the superhu~~man~~ brings about with a dialectical necessity the subhu~~man~~ as its enemy twin.9 This “two-sided aspect of the ideal of hu~~man~~ity” (Schmitt 1988, Der Nomos der Erde, 72) is a theme Schmitt had already developed in his The Concept of the Political (1976) and his critiques of liberal pluralism (e.g., 1988, Positionen und Begriffe, 151–65). His complaint there is that liberal pluralism is in fact not in the least pluralist but reveals itself to be an overriding monism, the monism of hu~~man~~ity. Thus, despite the claims that pluralism allows for the individual’s freedom from illegitimate constraint, Schmitt presses the point home that political opposition to liberalism is itself deemed illegitimate. Indeed, liberal pluralism, in Schmitt’s eyes, reduces the political to the social and economic and thereby nullifies all truly political opposition by simply excommunicating its opponents from the High Church of Hu~~man~~ity. After all, only an unregenerate barbarian could fail to recognize the irrefutable benefits of the liberal order.

#### 2) The reproduction of an external, ideological enemy permits absolute annihilation—their politics strips the non-human animal of its otherness and guarantees total war—this violence outweighs their turns because drawing lines limits violence to contained agonism

Odysseos 4 [Louiza, Department of Politics and International Studies and Faculty of Law and Social Sciences at the University of London, “Carl Schmitt and Martin Heidegger on the Line(s) of Cosmopolitanism and the War on Terror,” *Conference on the International Political thought of Carl Schmitt*, p. 18-21] // myost

The second criticism has to do with the imposition of particular kind of monism: despite the lip-service to plurality, ‘liberal pluralism is in fact not in the least pluralist but reveals itself to be an overriding monism, the monism of hu~~man~~ity.” Similarly, Timothy Brennan traces the same tendency in current cosmopolitan perspectives in that they show ‘an enthusiasm for customary differences, but as ethical or aesthetic material for a unified polychromatic culture – a new singularity born of a blending and merging of multiple local constituents.’ There are two ways in which **the discourse of a ‘universal hu~~man~~ity’ has a strong disciplining effect on peoples and politics**. The first, noted by a number of commentators, involves the political refutation of the tolerance witnessed in the cultural or private sphere; in other words, politically, **cosmopolitanism shows little tolerance for** what it designates as **‘intolerant’ politics, which is any politics** that moves **in opposition to its ideals, rendering political opposition to it illegitimate**. Cosmopolitan discourses **are** also **defined by a claim to their** own exception and **supe**riority. They naturalise the historical origins of **liberal societies** which are no longer regarded as ‘contingency established and historically conditioned forms of organization’; rather, they **become the universal standard against which other societies are judged**. Th**ose found wanting are banished, as outlaws, from the civilized world**. Ironically, one of the signs of their outlaw status is their insistence on autonomy, on sovereignty. The second disciplining effect on the discourse of hu~~man~~ity is seen in the tendency to normalize diverse peoples through ‘individualisation’. The paramount emphasis placed on legal instruments such as hu~~man~~ rights transforms diverse subjectivities into ‘rights-holder’. As Rasch argues ‘the other is stripped of his otherness and made to conform to the universal ideal of what it means to be hu~~man~~’. The international hu~~man~~ rights regime, which cosmopolitanism champions as a pure expression of the centrality of the individual and to which it is theoretically and ontologically committed, is the exportation of modern subjectivity around the globe. The discourse of hu~~man~~ity expressed through hu~~man~~ rights involves a transformation of the hu~~man~~ into the rights-holder: ‘[o]nce again, we see that the term **“hu~~man~~” is not descriptive, but evaluative**. To be truly hu~~man~~, one needs to be corrected.’ Thirdly, ‘hu~~man~~ity is not a political concept, and no political entity corresponds to it. The eighteenth century hu~~man~~itarian concept of hu~~man~~ity was a polemical denial of the then existing aristocratic federal system and the privileges accompanying it.’ Outside of this historical location, where does it find concrete expression? **The discourse of hu~~man~~ity finds expression in a**n abstract **politics of neutrality**, usually in the name of an international community **which acts**, we are assured, **in the interest of hu~~man~~ity**. James Brown Scott, a jurist and prominent political figure in the United States in the beginning of the 20th Century, wrote in the interwar years of the right of the international community to impose its neutral will: The “international community,” Scott writes, “is coextensive with hu~~man~~ity – no longer merely with Christianity,” it has become “the representative of the common hu~~man~~ity rather than of the common religion binding the States. Therefore, the international community “possesses the inherent right to impose its will…and to punish its violation, not because of a treaty, or a pact or a covenant, but because of an international need” (283). If in the sixteenth century it was the Christian Church that determined the content of this international need, in the twentieth century and beyond it must be secularized “church” of “common hu~~man~~ity” that performs this all-important service. Finally, and most importantly, there is the relation of the concept of hu~~man~~ity to the other, and to war and violence. In its historical location, the hu~~man~~ity concept had critical purchase against aristocratic prerogatives, but its utilization by liberal discourses in the individualist tradition, Schmitt feared, could bring about new and unimaginable modes of exclusion. Rasch explains: The hu~~man~~ism that Schmitt opposes is, in his words, a philosophy of absolute hu~~man~~ity. By virtue of its universality and abstract normativity, it has no localizable polis, no clear distinction between what is inside and what is outside. Does hu~~man~~ity embrace all hu~~man~~s? Are there no gates to the city and thus no barbarians outside? If not, against whom or what does it wage its wars? **‘Hu~~man~~ity as such’** Schmitt noted ‘**cannot wage war because it has no enemy,** at least not on this planet’. As Ellen Kennedy notes, hu~~man~~ity ‘is a polemical word that negates its opposite.’ In The Concept of the Political Schmitt argued that hu~~man~~ity ‘excludes the concept of the enemy, because the enemy does not cease to be a hu~~man~~ being’. In the Nomos, however, it becomes apparent that, historically examined, the concept of hu~~man~~ity could not allow the notion of justus hostis, of a ‘just enemy’, who is recognized as someone with whom one can make war but also negotiate peace. Schmitt noted how only when ‘~~man~~ appeared to be the embodiment of absolute hu~~man~~ity, did the other side of the concept appear in the form of a new enemy: the inhu~~man~~’ (NE 104). It is worth quoting Rasch’s account at length: We can understand Schmitt's concerns in the following way: Christianity distinguishes between believers and nonbelievers. Since nonbelievers can become believers, they must be of the same category of being. To be hu~~man~~, [End Page 135] then, is the horizon within which the distinction between believers and nonbelievers is made. That is, hu~~man~~ity per se is not part of the distinction, but is that which makes the distinction possible. However, once the term used to describe the horizon of a distinction also becomes that distinction's positive pole, it needs its negative opposite. If hu~~man~~ity is both the horizon and the positive pole of the distinction that that horizon enables, then the negative pole can only be something that lies beyond that horizon, can only be something completely antithetical to horizon and positive pole alike—can only, in other words, be inhu~~man~~. Without the concept of the just enemy associated with the notion of non-discriminatory war, the enemy had no value and could be exterminated. **The concept of hu~~man~~ity**, furthermore, **reintroduces** substantive causes of **war because it shutters the** formal **concept of justus hostis, now designated** substantively **as an enemy of hu~~man~~ity as such.** In Schmitt’s account of the League of Nations in Nomos, he highlights that compared to the kinds of wars that can be waged on behalf of hu~~man~~ity the Interstate European wars from 1815 to 1914 in reality were regulated, they were bracketed by the neutral Great Powers and were completely legal procedures in comparison with the modern and gratuitous police actions against violators of peace, which can be dreadful acts of annihilation (NE 186). **Enemies of hu~~man~~ity cannot be considered ‘just and equal’ enemies**. Moreover, **they cannot claim neutrality: one cannot remain neutral in the call to be for or against hu~~man~~ity or its freedom; one cannot**, similarly, **claim a right to** resist or **defend oneself in the sense we understand this right to have existence** in the jus publicum Europeaum. As will examine below in the context of the war on terror, this denial of self-defence and resistance ‘can presage a dreadful nihilistic destruction of all law’ (NE 187). When the enemy is not accorded a formal equality, the notion that peace can be made with him is unacceptable, as Schmitt detailed through his study of the League of Nations, which had declared the abolition of war, but in rescinding the concept of neutrality only succeeded in the ‘dissolution of “peace” (NE 246). It is **with the dissolution of peace** that **total wars of annihilation** and destruction **becomes possible, where the other cannot be** assimilated, or accommodated, let alone **tolerated: the friend/enemy distinction is no longer taking place** with a justus hostis **but rather between good and evil, hu~~man~~ and inhu~~man~~, where** ‘**the negative pole of the distinction is to be fully and finally consumed without remainder**. With this in mind, I turn to the next section to the war on terror and its relation to the discourse of hu~~man~~ity and cosmopolitanism.

#### Hegemony saves lives selectively—millions die from AIDs and starvation while mass interventions are justified if American interests are threatened. The result is overwhelming violence without limit

Badiou 04 (Alain, FRAGMENTS OF A PUBLIC DIARY ON THE AMERICAN WAR AGAINST IRAQ Vol. 8, No. 3 Summer 2004, pp. 223-238, kdf)

In fact, **the United States is an imperialist power without an empire,** a hegemony without territoriality. I propose the term "zoning" [zonage] to convey its relation to the world: **every place in the world can be considered by the American government as a zone of vital interest, or as a zone of total disinterest, according to fluctuations in the consideration of its "democratic" comfort. You could die by the thousands without America raising an eyebrow (thus. for years. AIDS in Africa). or, on the other hand. have to endure the build-up of a colossal army in the middle of the desert (Iraq today).** *Zonage* means that American military intervention resembles a raid much more than a colonial-type intervention. It's about vast incursions, particularly brutal in nature, that are as brief as possible. **Kill people in large numbers, beat them into a stupor, smash them until their last gasp. then return home to eniov the comfort you've so skillfully defended in a provisionally "strategic" zone: this is how the USA thinks about its power, and about how to use it.** The time will certainly come for us to conceptualize this assertion: the metaphysics of American power is a metaphysics of limitlessness. The great imperial theories of the nineteenth century were always theories of dividing, dividing up the world, creating boundaries. For the USA, there are no limits. Nixon's advisers, as Noam Chomsky points out, **were already proclaiming this under the name of "the *politics ofthe madman.* "The *USA* must impose upon the rest of the world the belief that it – the United States – is *capable of anything.* and especially of what is neither rational nor foreseeable. The excessive quality of the interventions aims at getting the adversary to realize that the American retaliation can be totally unrelated to what was initially at stake. The adversary will deem it preferable to concede management of the disputed zone, for a time, to the " mad' power.** The invasion of Iraq, currently under preparation, is a figure of that madness. It shows that, for American governments, there are neither countries, nor States, nor peoples. **There are only zones, where one is justified in destrovinR everything i f there is, in those zones, the slightest question of the idea – an empty one, besides – of American comfort.**