# Round 3—Aff vs Liberty CC

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#### Welcome to the Predator Empire—executive authority over targeted killing is increasingly constituted by a disposition matrix that relies on an ethos of precision and total knowledge about the targets—this embeds an everywhere war into the fabric of political planning

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(Ian, “Predator Empire: The Geopolitics of US Drone Warfare”, Geopolitics Volume 18, Issue 3, 2013, dml)

Since 2010, Obama administration ofﬁcials have busily **constructed a database for** administering life and death. The “disposition matrix”1 as it’s called, contains a list of suspects targeted for elimination **across the planet**. These spreadsheets are now a **permanent feature** of US national security. Once upon a time, targeted killings were antithetical to the American way of war. During the Clinton cabinet, ofﬁcials debated ﬁercely about the legality of eliminating Osama bin Laden. Even by July 2001, the US ambassador to Israel said, “The United States government is very clearly on record as against targeted assassinations. . . . They are extrajudicial killings and we do not support that”.2 Now, targeted killings have become **so normalised** that the Obama administration is seeking ways to streamline the process. The disposition matrix was developed by Michael Leiter of the National Counterterrorism Center to centralise the kill lists across multiple state agencies, including the CIA and the Pentagon. The result is **a single, evolving database** in which “biographies, locations, known associates, and afﬁliated organizations are all catalogued. So are strategies for taking targets down, including extradition requests, capture operations and drone patrols”.3 This deadly form of bureaucracy4 suggests **the changing method of state violence**: the decentralisation of targeted killings across the globe and the simultaneous **centralisation of state power in the** executive branch of government. From soldier, to special op, to lethal bureaucrat, this complicated and evolving geopolitical picture, one underwritten by lawfare, drones, and Orwellian terminology, is very much **the new face of an old Empire.**

Of course, the post-2001 “Global War on Terror” began its life as a geographically and legally amorphous war, encompassing battleﬁelds and “black sites” that marked a new phase of American exceptionalism. The hunt for Osama bin Laden in Afghanistan and the counterinsurgency in Iraq mobilised billion-dollar budgets and legions of troops. But as the clock ticked, and cracks in the Project for the New American Century emerged, the borders of the “Global War on Terror” did not contract, **they expanded**. In secret and shadow, Pakistan, Yemen, and Somalia became targets in a low-level war that Obama’s White House ofﬁcially brands an ‘Overseas Contingency Operation’.5 Referring to this gradual expansion of state violence in spaces far removed from declared theatres of war, Derek Gregory describes an “everywhere war”6 that is deﬁned by **asymmetrical and paramilitary battles** in the borderlands of the planet. At the start of 2012, amid controversy stirred by hawkish congressmen, President Barack Obama and his former Secretary of Defense, Leon Panetta, unveiled a new national strategy built around the ~~unmanned~~ [unstaffed] aerial vehicle and special operations forces. Troop numbers are to be cut by as much as 100,0007 as part of a restructuring to create a “smaller, leaner” military that will no longer engage in large-scale counterinsurgency. In addition to presenting the kind of technological visions that Rumsfeld touted only a decade earlier, Panetta discussed a “ﬂoating base”8 that would serve special operations forces as well as drone units. Taking stock of these developments, the aim of this paper is to grasp the contours and consequences of this droniﬁcation of US national security under a label I name **the “Predator Empire**”.

The MQ-1 Predator (see Figure 1) is perhaps the most well-known of all military drones used today. It has a wingspan of 55 feet, a length of 27 feet, and can be remotely piloted from thousands of miles away via satellite communications. According to the US Air Force,9 “The Predator system was designed in response to a Department of Defense requirement to **provide persistent** intelligence**,** surveillance **and** reconnaissance **information** combined with a kill capability to the warﬁghter”. Its deathly name conjures images of a science-ﬁction dystopia, a “Terminator Planet”10 where robots hover in the sky and exterminate humans on the ground. Of course, this is **no longer science-ﬁction fantasy**. Drone operators sitting in a Nevada desert now control a ﬂeet of robots that can loiter above the landscape with advanced sensing capabilities and weapon systems – giving rise to the claim that drone warfare resembles a “video game” (see Figure 2). And yet, as Steven Graham reminds us, “The instinct to **technologise and distanciate** their killing power – to deploy their technoscientiﬁc dominance to destroy and kill safely from a distance in a virtualised ‘joystick war’ – **has been the** dominant ethos **of US military culture and politics** for a century or more”.11

The modern Predator drone dates back to the GNAT-750 (and “Amber” before it) ﬂown in Bosnia in 1994 by the CIA under codename “LOFTY VIEW”. Six years later in 2000, the CIA ﬁrst started ﬂying Predators in Eastern and Southern Afghanistan in the hunt for Osama bin Laden. The agency’s ﬁrst targeted killing took place on February 2002; the Counterterrorism Center unleashed a “Hellﬁre” missile at a “tall man” believed to be none other than the al-Qa’ida leader and his lieutenants. But the analysts had wrongly identiﬁed civilians gathering up scrap metal.12 All were killed. And in a mark of irony that often haunts the drone wars – the site of the strike was Zhawar Kili, a mujahideen complex built by Jalaluddin Haqqani in the 1980s with CIA and Saudi support.13 This model of extrajudicial killings, one developed almost exclusively in-house,14 would soon be rolled out across the Durrand Line to become the model of drone strikes in Pakistan. Since 2004, the Federally Administered Tribal Areas (FATA) has been the primary target for the agency’s clandestine attacks. Hundreds of civilians and thousands of militants have died15 in an undeclared war that generates international controversy for its seeming violation of national sovereignty and international law.16 While the number of drones carried by the CIA is classiﬁed, in 2012 the agency’s former director David Petreaus requested that the number of Predators and Reapers increase by 10, from an inventory of “30 to 35”.17

The CIA’s drone programme in Pakistan emerges from a history of targeted killings and counterinsurgencies, especially in Latin America and Vietnam.18 Ever since The National Security Act established the CIA in 1947, clandestine operations have deﬁned a “black world”19 of intelligence, surveillance, and extrajudicial activity that continues to swell and spread, blurring the division between military and civilian violence.20 **Targeted killings are a central US counterterrorism tactic** that came to prominence after Israel used them against suspected Palestinian terrorists in 2000.21 Although there is no agreed deﬁnition under international law, targeted killings are deﬁned by the UN as “the intentional, premeditated and deliberate use of lethal force”.22 The details of the CIA’s drone programme remain shrouded in secrecy, despite Obama’s admission on a “web chat” that he was keeping the strikes on “a tight leash”.23 On September 9, 2011, US District Judge Rosemary Collyer ruled that the CIA is not legally required to inform the public about the use of drones in the killing of suspected terrorists.24 Even if the exact details are classiﬁed, the White House and anonymous “ofﬁcials” implicitly justify the drone campaign with broader legal arguments such as the “inherent right to self defense” under Article 51 of the U.N. Charter.25 But perhaps any appeal to a legal argument is limited: law has never been a guaranteed check on sovereign power, whether declared or not – **often enabling and exacerbating it**.26 And 2011 will be remembered as the year when extrajudicial state violence reached an unprecedented milestone. On the 30th of September, a senior member of al-Qa’ida was killed in Yemen by a covert US drone strike. His name was Anwar al-Awlaki, born inside the US in 1971. As the American Civil Liberties Union (ACLU) responded, “This is a program under which American citizens far from any battleﬁeld **can be executed by their own government without judicial process**, and on the basis of standards and evidence that are kept secret not just from the public but from the courts”.27

As I will soon argue, drones were already cementing their position as a favoured option for US security in 2010. The 2010 National Security Strategy28 and the 2011 National Strategy for Counterterrorism29 state that the American way of life is threatened by geographically and legally amorphous al-Qa’ida ‘afﬁliates’ in regions that stretch from North and East Africa to the Arabian Peninsula, and beyond. These documents are important because they set in motion a set of speciﬁc responses “such that different referents of security give rise to different kinds of governmental technologies and political rationalities”.30 The drone emerges as one governmental technology able to hunt down afﬁliates “everywhere”. The next section of the paper will examine these strategic discourses in more depth, especially in light of the 2012 Defense Strategic Guidance31 that spelled the end of large-scale ground wars. My analysis then extends to a set of delegitimising discourses that challenge the abstract White House security and bureaucratic narratives, by reviewing interview materials from a 2010 report by Civilians in Armed Conﬂict (CIVIC)32 and a 2012 report by Stanford Law School and the New York School of Law.33 From these empirical materials I then make a number of theoretical points concerning the changing face of US national security or the “Washington Rules”.34

I employ the provocative concept “Predator Empire” as a way of bringing together **the** strategies**,** practices **and** technologies **arranged around the deployment of drones for targeted killings**. The Predator Empire is underwritten by a regime of biopolitical power that according to Foucault35 **has “**life**” as its target**. What, or rather who counts as life is understood in two distinct ways. First, there are the various known personalities that **make up the kill lists** on the White House’s disposition matrix. Second, there are the “patterns of life” that are coded and targeted by analysts and operators. Since 2008, the CIA has rolled out “signature strikes” in Pakistan that target individuals or groups that display “dangerous” or “suspicious” patterns of life. What makes these forms of targeted killing so controversial is that the person eliminated is not identiﬁed by staff in the CIA’s headquarters in Langley, Virginia. Instead, they exist asdigital proﬁles **across a network of technologies, algorithmic calculations, and spreadsheets**. The ability to strike distant targets in the far reaches of the planet is enabled by the evolution of a topographic and ground-based spatial power to an aerial and topological spatial power. While by no means denying the vast material infrastructure or ‘Droneworld’36 that houses unmanned aerial vehicles across the globe; the extensive digitising, coding, **and** eliminating **of life in “real time**” is what marks the Predator Empire as distinctive.

#### Wedding information to targeting has enabled a drive for absolute sovereign power that strives to manage life and death based on hypothetical risk scenarios crafted from its accumulated knowledge—this knowledge is always-already incomplete but the Predator Empire blames resultant failures on human error and not the fallibility of its technology—this reduces the bodies of targets to mere information and removes accountability from warfare

**Wilcox 9**—Macalester

(Lauren, “Body Counts: The Politics of Embodiment in Precision Warfare”, International Studies Association Annual Conference "Global Governance: Political Authority in Transition", dml)

Precision bombing, like its less accurate predecessor strategic bombing, is an exercise of sovereign power by deciding who die and who shall be left alone to live. Precision is about **the dream of** perfect vision**,** perfect knowledge**, and** communication of that knowledge. The vision of precision bombing, of **perfect accuracy in targeting** conveys a desire for absolute sovereign power—a desire manifest in the use of PGMs to target specific individuals, thus blurring the line between bombing and execution. **Wars are fought ‘humanely’**: for humanitarian purposes and waged with humane weapons and techniques (Coker 2001). Certainly the shift from the area bombing of World War II and Vietnam to the precision bombing of the Gulf War, Kosovo, Afghanistan and Iraq may parallel the shift from punishment to more ‘humane,’ biopolitical forms of warfare, in which preservation of (certain) lives is necessary for the strategic and political success of the war.

**Precision warfare involves** the management of risk **and** the management of death. Throughout the history of precision bombing, the military has focused on ever more ‘precise’ means of dropping bombs. One of the first tools, the Norden Bombsight, was said to be able drop a “bomb into a pickle barrel,” but its accuracy was measured in percentage of bombs hitting within a 1,000 meter radius of the given target (McFarland 1995). The CEP, or circular error probability, is how ‘precision’ is measured in laser or GPS guided munitions. The CEP measures the average distance from a target that the bomb will hit in terms of fifty percent of hits within a certain radius. The mean CEP in Gulf War was 100 feet, (Easterbrook 1991) while the mean CEP of bombed dropped in Iraq was twenty-five feet, meaning that **even if the bombs hit where they intended to,** massive amounts of damage nearby the target will like ensue. Precision bombing is getting more and more precise, and used as a greater and greater percentage of tonnage dropped. (Rip and Jasik 2002, 214, 224). However, combined with intelligence errors**,** targeting errors**, and** GPS errors, **‘precision’ missiles that can take out targets cleanly with little risk to the surroundings are** largely a myth.

Foucault’s critique of power/knowledge is also particularly relevant in terms of precision bombing. That bodies are made intelligible through knowledgeable discourses focuses our attention on the ways in which **the knowledge that is used in bombing is produced**. The aspiration for total sight, total destructive capability for the entire globe is not limited to the specifics of precision weapons systems, but **is a** defining component to the so-called Revolution in Military Affairs. The RMA is a discourse in which **information is** central **to warfare**, as “the new metaphysic of power” in warfare (Dillon and Reid 2001, 59). The creation, control, **and** transfer **of information are** crucial components **of the liberal war machine.** Proponents of the RMA proclaim knowledge as **the foundation of American military supremacy**. (Nye and Owens 1996). “Total Information Awareness,” is the goal of the Information Awareness Office, a DARPA program formerly symbolized by an all-seeing eye casting its laser-like gaze over the entire planet. The motto is, fittingly, ‘scientia est potentia,’ or ‘knowledge is power’. Ostensibly de-funded in 2003, its key projects have been funded under other programs. This is but one example of **the goal of a global ‘panopticon’** in order to ensure military superiority. This omniscient power is productive of a division of the world between those with the super-human visual capabilities and the objects of that knowledge, **produced as potential terrorists under the disciplining gaze**.

Precision warfare is also characterized by risk-aversion in both the means of fighting and reasons for war. While precision warfare involves constant calculation of risks to both soldiers and civilians, it should be noted that ‘risk’ as prevalent concern is not a concept that is essential and unavoidable. Kessler and Werner note, “risk is not a ‘thing’ **independent of human practices or social relations**. It is not a property of an objectively given reality, nor is it a psychological law. Rather, risk names the boundary of both what is known and unknown and the particular war in which the ‘unknown’ is made known,” (Kessler and Werner 2008). Risks are a product of **specific discourses of threat and danger** on one hand, and **technologies of control** on the other.

Cyborg/Prosthetic bodies

Feminist and other critical scholars have argued that discourses of dehumanization have **enabled killings to take place from a distance that** would not be tolerated **at close range**. Critical scholarship addressing contemporary warfare has often critiqued the use of precision guided munitions along with the portrayal of these weapons as a technological solution to the ‘fog of war’. ‘Precision bombing’ is seen as a myth, **as such weapons often** do not live up **to alleged ability to strike their targets precisely**, resulting in numerous deaths of civilians. **Precision warfare is a** technical fantasy, and serves as technology of **validating a type of warfare that is only available to a few.** Critical studies of precision bombing in contemporary warfare have argued that the legal and moral tenets of the just war doctrine and the laws of war have served to legitimize the high tech warfare associated with the use of PGMs (Smith 2002) (ah Jochnick and Normand 1994). The legitimacy accrued to the use of such technology is challenged by critics who see the benefits of the development and use of PGMs resulting less from a desire to spare civilians than to reduce the risks to servicemen and women and to garner and maintain support for overseas operations (Beier 2003) (Ignatieff 2001). Dubbed ‘risk-transfer warfare’ by Martin Shaw, risks that were once shouldered by combatants **are now borne by local allies and civilians**, who are at risk of being victims of small ‘accidental’ massacres, as well as indirect victims of infrastructural damage (Shaw 2002).

By privileging the question of just how ‘precise’ precision weapons are, both proponent and critics of precision warfare operate in the discourse of risk in which death and destruction are probabilistic rather than absolute. The deaths of civilians and ‘our’ soldiers are carefully managed. Patricia Owens argues that the ‘accidents’ in precision bombing that kill scores of civilians **are** not really ‘accidents’ per se, but are rather part of a discourse associated with technological progress **legitimizes such civilian deaths** under the guise of ‘accidents’ (Owens 2003). ‘Accidents’ furthermore **help sustain the hegemonic status quo** in which US and NATO campaigns are framed as ‘humanitarian’. The portrayal of civilian casualties as ‘accidents’ by officials and in the popular press along with constant claims of military planners of the precautions taken to avoid civilian casualties **serve to** shield **politicians and the military from responsibility for these civilian deaths**. ‘Accidental’ deaths are seen as inevitable even with the most precise weapons are used. The word ‘even’ here is instructive. **Accidental massacres are attributed to human,** not technological **error**. For example, the attack on Al-Firdos bunker in which three hundred civilians were killed is described as **one of the most precise of the war**: an intelligence failure as to the facility’s use was the only thing preventing this mission from being a complete success (Rip and Jasik 2002, 321). The bombing of the Chinese embassy in Sarajevo has been attributed to the use of outdated maps or to improper targeting information. The infamous bombing of a wedding party in Afghanistan has been attributed to errors made by the ground spotters. Thus, **even when technology enables the accidental massacre**, it is ultimately not to blame, it is human error that causes the technology to fail. Humans are fallible, but machines are not. **The machine represents the highest ideas of** rationality **and** perfectibility. To replace the human with the machine is **ideologically to remove risk, contingency from the battle space and** to have total control.

#### This method of management marks certain lives as killable based on their potential acts in imagined scenarios—this securitization of the future is theoretically incoherent and can only result in endless violence

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(Liam, “Securitizing the Future? A Critical Interrogation of the Pre-emptive Turn in the Theory and Practice of Contemporary Security”, Presented at the Canadian Political Science Association Annual Conference Concordia University, Montréal, QC 1-3 June 2010, dml)

The preceding discussion has shown how the problem of uncertainty dictates that the logic of pre-emption and the securitization of the future that it embodies necessitate a wide and diverse deployment of sovereign power in the present. Moreover, the logic of pre-emption is premised upon the extension of sovereign control to the temporal realm, as the chief concern of security policy shifts from questions of deterrence, reactivity, and punishment toward the securing of one particular imagined iteration of the future in lieu of multiple potential others. The crucial role of imagination that results from the inherent unknowability of the future is important to consider in this respect, as the future that is being securitized— and thus in whose name exceptional interventions in the present are carried out—is always imaginary. This point has been taken up by critical security scholars, with Mark Salter (2008: 243) asserting that “[t]he logic of pre-emption prioritizes the power of imagination over the power of fact,” while Aradau et al. (2008: 152) contend that “the sovereign order is no longer simply that of decision, but also that of imagination.” What these observations imply is that, under the logic of pre-emptive security, exceptional practices can be (and are) enacted against an individual (or group) not on the basis of what s/he has done, or even on the basis of what s/he has indicated through actions or declarations that s/he might do, but rather on the basis of what it is imagined that s/he might one day think about doing—what Cynthia Weber (2007: 115), invoking Philip K. Dick, terms one’s “pre-thoughts.” Indeed, this very line of reasoning provided the impetus for the development of the category of “unlawful enemy combatant”, which was employed by the US to enable the indefinite detention of prisoners at Guantánamo Bay and other exceptional spaces in archetypal acts of pre-emptive security. These individuals were condemned by sovereign power solely on the basis of “imagined future harm they might cause, rather than past crime” (Ericson 2008: 63,my emphasis). 3

With the sovereign decision thus contingent upon imagined scenarios rather than explicit knowledge, a condition emerges in which no future is considered impossible and thus, by default, every individual—regardless of their particular characteristics—is a potential suspect and is placed upon a “continuum of risk” within the unlimited realm of the imaginary (Ibid.: 66; see also Ewald 2002). As Ericson contends, a security environment where imagination is the primary means of determining threat generates a regime of “universal suspicion that spells the end of innocence” (2008: 66.). The necessarily imaginary element inhering in the logic of pre-emption thus severs the link between factual knowledge and sovereign security practice, in that, once the accusatory imagination has been enacted, there is no way to explicitly prove a subject’s innocence since the accusation relates to an act or thought which has, by definition, not yet occurred (Aradau & Van Munster 2007). A crucial corollary of this condition is that the very basis of the juridical system of the liberal polity is fundamentally undermined, as the collection of evidence and its evaluation via the appropriate judicial procedures is rendered impossible when dealing with an imagined future offence, since the offence in question has not yet been conceived by the accused, let alone committed (Ibid.: 106). Thus, the pre-emptive security logics and their attendant practices operate under a condition where the established juridical order of a liberal state cannot apply, as the latter is simply incapable of accommodating the temporal problems that are inevitably raised. The extension of sovereign power to the temporal realm—which is the central function of the logic of pre-emption—thus serves to suspend the juridical order by default, as decisions regarding innocence and guilt relating to questions of security now become solely the purview of sovereign power. As the suspension of the juridical order is the central characteristic of the state of exception (Agamben 2005), it is thus clear that a security regime premised upon a logic of pre-emption enacts such a state, as the reach of sovereign power becomes immense and the potential for each individual to be subject to its violences is always present.

The implications of this determination for everyday life in ostensibly liberal polities are significant. Within such a security climate—where the juridical order is no longer applicable to questions of security—it is only sovereign power itself that is immune from potential pro/persecution (Ericson 2008: 67). Accordingly, the potential necessarily exists for what Agamben (2000) terms the “logic of the camp” to be enacted at any location—be it the detention centre, the airport, the border, or a London Tube station.4 What this signifies is that, even within “liberal” states ostensibly committed to the rule of law and the upholding of human rights norms, a security logic of pre-emption premised upon the primacy of imagination always already embodies the potential that anyone at any time may be inscribed as “bare life” by sovereign power (Agamben 1998). 5 Yet, returning to the question of temporality, the arbitrary violences inherent in these practices are not viewed as problematic under the logic of pre-emption precisely because they are enacted in the present—an ostensibly exceptional temporal space that requires sovereign intervention—in the name of that which is to be secured: the future. Moreover, as discussed above, the precautionary ethos based on the unknowability of the future that underwrites this logic necessarily favours action over inaction, thus ensuring both a high level of sovereign activity, and a concomitantly increased likelihood that mistakes will be made and violence will be done to innocent life. Indeed, as David Runciman (2004) asserts, the precautionary logic of pre-emption “does not take seriously enough the downside of getting things wrong.”

Thus, to summarize, under the logic of pre-emption, securing the future through the violent deployment of sovereign power in the present against individuals deemed guilty in a contingently imagined future is paramount, and the present consequences thereof cannot be deemed problematic if this logic’s prioritization of the future over the present is to be upheld. The potential for sovereign power to inscribe any individual as bare life in the present is thus an ineluctable feature of a pre-emptive security logic premised upon a securitized future. The present is thus constructed as an exceptional temporal space necessitating violent interventions and the suspension of the juridical order if this latter goal is to be pursued. Under the pre-emptive logic of contemporary security practices, then, the present is laid siege by sovereign power for the ostensible purposes of ensuring that a certain order subsequently emerges in lieu of all(risky) others at some indefinite future point.

A Logic of Absurdity

While a vast catalogue of literature has problematized states of exception akin to that which I have argued arises from pre-emptive security strategies on ethico-political terms, this is not the route the remainder of the paper will take. Rather, I intend to focus instead upon how the seemingly inevitable emergence of a temporalized exception as a consequence of preemptive security practices illustrates that the broader logic upon which the latter are premised is fundamentally absurd and theoretically incoherent. As a departure point for this discussion, it is important to consider that for all the insidious violences it enables and the cynical ways in which it has been implemented practically, the logic of the exception is nevertheless just that: a logical theoretical premise imbued with a degree of intuitive normative coherence—namely, the idea that exceptional measures are temporarily required for the restoration of a particular desirable condition of existence in the present (see Agamben 2005). 6 Yet, when the political condition in which the present is taken hostage in the name of the future that I have detailed heretofore is considered in relation to this logic, the fundamental absurdity of the idea of preemptive security begins to reveal itself. Indeed, the specific introduction of temporality into the concept of the exception—as is entailed by the notion of pre-emptive security—renders the underlying logic of the exception elementally incoherent, as the very nature of preemption ensures that the aims of its security project that are pursued through exceptional practices can never in fact be realized, thus permanently instantiating a state of exception in the present.

To elaborate upon this point—albeit at the risk of descending into obscure hypotheticals akin to the worst excesses of analytical philosophy—consider the claim that the pre-emptive security project is inherently unrealizable, and thus logically absurd, in terms of a metaphorical illustration consisting of a rider atop a horse. To induce the horse to run forward, the rider hangs a carrot on a string in front of the horse. Imagining the reward of eating the carrot in the future, the horse makes an intervention in the present—moving its feet—that it believes will allow it to secure possession of the carrot in accordance with the ideally imagined future scenario. However, the rider’s dangling the carrot at a specified distance from the horse ensures that there is always a separation between horse and carrot. Thus, regardless of the intensity (or violence) of the interventions that the horse undertakes in the present, it and the carrot will always remain separated and its ingestion of the latter will always exist only in the imagined future that is perpetually out of reach. Accordingly, no matter what the horse does in the present, its inexorable separation from the carrot ensures that this future will never be realized in the present. Yet the logic of its thinking continues to necessitate unending interventions in pursuit of that future, to the point where it will have done immense damage to itself (in the form of fatigue, for instance) in pursuit of a future that is by definition never achievable due to the perpetual separation between itself and the carrot. To return from this obscure digression to the specifics of this paper, then, the spatial separation between horse and carrot is analogous to the temporal separation between present and future within the context of pre-emptive security. Much like the thinking of the hypothetical horse, the logic of pre-emption is premised upon the notion that exceptional interventions are required at present to secure a particular imagined future. However, just as the perpetual spatial separation of horse and carrot ensures that the horse continues, ad infinitum, to vainly pursue a snack that will never be eaten, the necessary temporal separation of present and future ensures that, in a climate of pre-emptive security, the sovereign gaze will be perpetually fixed upon a future that will never actually arrive, since what was the future inevitably becomes the present, whereby it too becomes exceptionalized as a site of violent intervention in pursuit of securing what is the new future, and so on.

The logical absurdities underwriting the idea of pre-emptive security thus become clearer, as what results from the introduction of pre-emption into security logic is the necessary permanence of the state of exception in the present. To reiterate, under the logic of pre-emption, the passage of time ensures that the future will become the present, whence it too will be “taken hostage” by sovereign power in an effort to secure what is now the future, which by definition can never be arrived at due to the exigencies of time. The problem is thus that, while we may seek to secure the future, we nevertheless always exist and act in what might be termed the perpetual present, since the present is the only temporal space in which interventions can be practically undertaken and experiences of security can occur. The corollary is that, if the logic of pre-emption holds, the imagined future that these interventions are ostensibly enacted to secure is necessarily never realizable, since any evaluation of whether it has been securely realized can only occur in the present, which is always already constructed as a state of exception under the logic of pre-emption. Indeed, the present can never be(come) the ideally imagined future that is ostensibly being secured, since pre-emptive security’s focus upon the future-as-referent necessitates that the present can only ever be conceived as the exceptional temporal space in which interventions to secure that future are to be undertaken. The experienced present thus cannot ever be seen as a manifestation of the risk-free “future prefect”, since the inherent unknowability of the future is a constant threatening spectre in the present. This ensures that, under the logic of pre-emption, the present is inevitably and perpetually subject to arbitrary and potentially violent sovereign interventions.

#### Prefer our framing of violence—problematizing the normative structures that shape how bodies are targeted is critical to understanding how and why violence occurs in concretized scenarios

**Lloyd 6**—Loughborough University

(Moya, “Who counts? Understanding the relation between normative violence and the production of political bodies”, paper presented to the panel: ‘Power, Violence and the Body’ Annual Meeting of the American Political Science Association Philadelphia, 31 August – 3 rd September 2006, dml)

It might be objected, of course, that extending the idea of violence any further in order to incorporate normative violence within it results in a proliferation of meaning that merely hampers the usefulness of ‘violence’ as a descriptive and evaluative political concept. 27 And, this is not just because the very idea of a normative violence may itself appear paradoxical, if not downright contradictory given that normative is conventionally used to designate something that ought to happen. It is also because it is not perhaps transparently obvious that some of the actions Butler identifies as sustaining normative gender (in the examples given) qualify as recognizable acts of violence in the first place (e.g. losing lovers and jobs). Moreover, given that **so many die in wars**, as a consequence of acts of internecine conflict, terrorism, random killings, and so many are brutalized in civil wars, in racially-motivated or homophobic assaults, through rape or acts of domestic violence, as a result of torture, not to mention the violence of child abuse, some critics will no doubt claim that **time is better spent** finding solutions **to deal with these instances of actual violence** rather than speculating about forms of figurative or categorical violence and how they do or do not relate to **what happens in the ‘real world’**. But what if what we recognize as physical violence depends on certain categorizations **that are**, in themselves, **normatively violent**, that operate, in other words, to exclude certain subjects and/or acts of violence? **What if physical violence occurs** precisely because **some people are apprehended as less valuable than others?** And, here we have only to think of homophobic or racist violence. **What if we** cannot see **the violence that certain peoples suffer as violence at all because those people are invisible** (‘unreal’, in Butler’s lexicon) to us; that is, fail to figure within our consciousness as human and are thus denied the rights, privileges, protections and help that accrue to the human? **Should we still argue** **for an** exclusive focus **on** actual**,** empirical **violence?** Or would we be better **evaluating** how **and** why **certain persons are construed as somehow deserving of**, or soliciting, **violence** **in the first place?** It is my contention in this section that an analysis of normative violence is, in fact, something we cannot do without **since it not only sheds** valuable light **on the kinds of political violence that characterize the contemporary world** (including war, ethnic conflict, terrorism, racist violence to mention only some of the most obvious) but also because it forces us to consider how our ability to recognize certain actions as violent **might itself depend on the effacement of other (violent) actions**. To illustrate how this argument works, I now want to turn to Precarious Life.

#### We’re not superhuman—this politics of controllability culminates in extinction—the aff is a paradigm shift that forces us to recognize the futility of our efforts to rationally manage the world—this is the prerequisite to a politics that better addresses global problems

**Peat 8 –** theoretical physicist, Ph.D., founder of the Pari Centre for New Learning

(F. David, “Gentle Action: Surviving Chaos and Change”, <http://www.gentleaction.org/library/paper2.php>, dml)

Many rapid changes that are taking place around us. These include globalization, developments in technology; fears of terrorism, the instability of the Third World; the rise of the Pacific Rim and a United Europe; the breakdown of inner cities; economics that appear to be out of control with the consequent challenges of inflation, recession and unemployment; spiraling health costs; revolutions in communication technology and information processing; the demands of consumers and special interest groups; threatened species and ecologies; the dangers of global warming and ozone depletion; increasing rates of teenage suicide and drugs use; the transformation of management and the breakdown of conventional institutions. Governments, institutions, organizations and individuals experience considerable anxiety in the face of such rapid change and **feel powerless to ameliorate the problems** that surround them. Indeed, it sometimes appears as if their plans and policies, as well as the traditional structures of their institutions, **are themselves part of the problem**. In so many cases policies, plans, interventions and other actions, all taken in good faith, have not only failed to resolve an existing situation but in many cases **have acted to magnify and render the problem even more intractable**. In other cases, the attempt to impose a solution in one location or context **has had the effect of creating an even larger problem elsewhere**. Organizations and individuals feel control slipping from their grasp and their natural reaction is to become even more intransigent in their attempt to clamp down on events and exert ever more control. **The result is a spiral of control that has literally gone out of control!** The realization that plans and policies are ineffective leads to a sense of depression and hopelessness. Faced with the insecurities and flux of the modern world many institutions fall into a state that, where it to be detected in an individual, would be diagnosed as manic-depression! How did this cycle of anxiety, hopelessness, panic and the desire for ever more control arise? I would argue that it is a paradigm of thought and behavior that originates in our particular view of reality, a view, moreover, that modern science had now demonstrated to be fundamentally erroneous. Thus, when our perception of the world around us is astigmatic, the actions we take become increasingly inappropriate and incongruous. It is only by entering into new modes of perception and acknowledging a new paradigm of reality that more appropriate forms of action can be taken. The Myth of Control One of the great themes of Western civilization, a theme of virtually mythic proportions, involves the way in which nature has been tamed and controlled over the course of the last few thousand years. Other cultures and civilizations have, for example, developed the techniques of farming but it appears that only the civilizations that expanded from their Neolithic birthplace in Northern Europe and the Fertile Crescent of the near East possessed the hubris necessary to impose themselves to such a marked extent upon the landscape. Thus, even in prehistoric times, European forests were cleared, marshes drained, vast tracts of land converted to farming, and tracks and walkways established as human beings sought to recreate the landscape according to their own needs. And, as ever more powerful technologies and social control became available, this path of domination continued. Within our own time, social critics have pointed out that this desire to exert control has led to our distancing ourselves from the natural world. The effect has been for us to place an **increasing faith in human reason, science, technology and the effectiveness of plans**, directives **and policies** while, at the same time, to decrease our sensitivity for the complex and subtle nature of the world around us. In short, **we tend to stand outside the world**, like observers, **indulging in constant analysis,** **making predictions and exerting corrective control** when situations do not move in the direction we desire. When human society and its associated technology were relatively simple and localized, and the resources that it called upon were unlimited, then this pattern of control was relatively successful. But as societies attempt to deal with ever more complicated issues, their boundaries became more open, their resources are found to be finite, the environment fragile, and technologies and world economics become increasingly complex then these conventional approaches simply fail. Ultimately, by virtue of its early success, the desire to dominate grew to the point where **it began to subvert itself and**, in the process, **endangered the whole planet**. And increasingly actions taken in one sphere **have unintended consequences in another**. Engaging complexity Over the last decades, however, there have been indications of a remarkable transformation within this traditional vision; a revolution in the perception of ourselves, our culture and the nature of reality that is truly Copernican in its implications. Just as in the 16th century astronomical observations were to dethrone the human race from a central place in the universe, so too in our own century relativity, quantum theory, chaos theory and systems theory, along with new insights in psychology, ecology and economics, have demonstrated the fundamental fallacy of our belief in definitive control. At the same time they are affirming our basic connectedness to the whole of creation. These scientific insights happen to have come at a time when the world has been experiencing rapid revolutionary change. States have risen and fallen. The notion of government is being transformed. Institutions are questioning their effectiveness. Businesses are desperately searching for new ways of operating. Technologies have developed so rapidly that people are unable to keep up with their implications. The overall effect has been to create **a profound sense of anxiety**, a fear that things are out of control, that the future is increasingly uncertain and that we have been left with nothing to hang on to. Yet what if this anxiety actually **points to an essential truth about the world**, that ultimately control and definitive prediction are strictly limited and that we must discover new ways of being and acting? Our current economic, social, ecological, environmental and institutional systems are now enormously complex to the extent that **we may never have complete knowledge** **about the inner dynamics of** such **systems**, nor the ability to predict exactly or exert total control. In this we can draw on metaphors from the new sciences of quantum theory, chaos theory, systems theory, and so on which also indicate essential limits to prediction, description and control. It is for such reason that so many of our plans and policies have been unable to meet the complexities of the modern world and why some supposed "solutions" have created even deeper problems and more intractable situations. The myth of eternal progress and control that has lain behind Western civilization can no longer sustain itself. The island of order and certainty on which we have been living has turned out to be not solid land but a rapidly melting iceberg, and we have no alternative but to **plunge into the boiling sea of flux, uncertainty and change that surrounds us**. The Dilemma of Action These are the dilemmas that many organizations find themselves in today, dilemmas that translate into the anxieties and uncertainties faced by many individuals. Programmed by their goals and mission statements, as well as by their very structures, many organizations inevitably seek ways of exerting control and believe that they must always take positive action in the face of uncertainty. Yet increasingly they discover that these actions are inappropriate. And so organizations, institutions, governments, groups and individuals retrench, break apart or in some other way get trapped into a spiral of ineffective decision making, paralysis and anxiety. These organizations, governments and institutions have been created according to our traditional image of reality; that is, of **a world that is external to us, predictable, relatively mechanical, and whose dynamics can be controlled** by the application of directed force. As a result, organizations are themselves relatively rigid in their nature, operating from fixed plans, policies and mission statements. Their internal structures are often hierarchical in nature, their lines of communication are limited rather than being flexible and dynamic, and their response to challenge and change is often predictable. In other words, most organizations are far less subtle and complex than the very systems they are attempting to address. **The basic problem** facing our modern world **is:** **How can society respond to the flux and challenge of the modern world** when all its institutions are inflexible and over-simplistic? When situations move more rapidly than an organization is capable of responding, policies and programs are outdated even before they are put into operation. Rather than acting to render organizations and policies more flexible, the apparatus of modern technology tends to **rigidify and entrench the problems** and rigidities that already exist within an organization. Organizations are composed of individuals and here too the conditioning of our society tends to inhibit natural creativity and abilities. Just as organizations have areas of rigidity, limitations also apply to the psychology of the individual. The issue becomes, therefore, one of freeing and fostering the natural intelligence and creativity of individuals and allowing them to operate fully within society, governments and institutions. In other words, how can organizations and individuals transform themselves so that they can become as subtle, sensitive, intelligent and fast-responding as the world around them? How can institutions heal their separation from society; society from the individual; and the individual from the natural world? Creative Suspension Paradoxically it is the very effort to change that establishes an internal resistance and rigidity that sustains the blocks that are to be removed. The first step towards transformation lies in an act of "**creative suspension**" and "alert watchfulness". This is an action that has the effect of relevating and making manifest the internal dynamics, rigidities, **fixed positions**, **unexamined paradigms**, **interconnections** and **lines and levels of communication** within the organization and the individual. A form of "creative suspension" is taught to paramedics and rescue workers who have to deal with serious accidents. While a layperson may wish to rush in an "help", a professional will suspend immediate response in order to make a careful assessment of the whole situation and determine how to use resources most effectively. Likewise doctors and paramedics made a visual examination of the wounded before carefully touching and then determining what medical action should be taken. The nature of this creative suspension is related to other approaches and techniques whereby unexamined assumptions and rigidities are brought into conscious awareness. For example, Sigmund Freud's notion of "non-judgmental listening" as well as various meditative practices. Artists, composers, scientists and other creative people often describe how their work unfolds from a form of creative "listening". These acts of listening and watchfulness have the effect of dissolving rigidities and **rendering a system more flexible**. Of course the lights will begin to flash and the alarm bells ring. Like Pavlov's dog an organization is conditioned to react and respond. But what if it does nothing--but it a very watchful way, and this applies not only to organizations but to individuals as well? **The first stage will be one of panic and chaos**, a flow of commands and information. All of this is not **being generated by** any external threat but through **the** internal **structure of the organization** itself. By remaining sensitive to what it going on it may be possible to become aware of the whole nature of the organization, of its values, the way its information flows, its internal relationships, dynamics and, in particular, its fixed and inflexible responses-- the organizational neuroses and psychoses if you like. Arthur Koestler suggested that a scientific revolution is born out of the chaos as a paradigm breaks down. It is possible that **something** **new and more flexible could be born out of the** break-down of fixed patterns in an organization, policy group or individual. Through a very active watchfulness it may be possible to detect its unexamined presuppositions, fixed values and conditioned responses and in this way allow them to dissolve by no longer giving energy to support them. The idea would be to permit the full human potential for creativity within each individual to flower, it would enable people to relate together in a more harmonious way and human needs and values to be acknowledged. In this fashion the organization or group dies and is reborn. In its new form it becomes at least as flexible and sensitive as the situation it faces. Now, using science, human creativity and the art of working with complex systems it may be possible to perceive a complex system correctly and model it within the organization. This new understanding would be the basis for a novel sort of action, **one that** **harmonizes with nature and society**, that does not desire to dominate and control and but **seeks balance and good order** and is based on respect for nature and society. Gentle Action explores images of new organizations and institutions that would be able to sustain this watchfulness. In place of relatively mechanical, hierarchical and rule-bound organizations there would exist something more organic in nature. In place of relatively mechanical, hierarchical and rule-bound organizations there would exist something more organic in nature. By way of illustrate one could draw upon ideas and concepts in systems theory, Prigogine's dissipative structures, cooperative and coherent structures in biology, neural networks, quantum interconnectedness and non-locality. In such a way organizations will be able to reach a condition in which they are as sensitive, subtle and as intelligent as the systems and situations that surround them. New Organizations, New Dynamics With this increased flexibility, organizations will now be able to internalize and model the complex dynamics of the systems that surround them. Rather than seeking to predict and control, they will now be able to enter the flux of change and engage in those actions that are appropriate to each new situation.

#### Our advocacy is to say no to the executive’s authority to engage in targeted killing.

**Rowan 5**—University of London Department of Geography, the best article titler in the world

(Rory, “Imagine a Boot Stamping on Your Face Indeﬁnitely: The ‘War On Terror’ and Executive Hegemony”, Anamesa vol 3 issue 1, spring 2005, dml)

The French legal theorist Julien Freund warned, in his analysis of Carl Schmitt’s work, that “once power has been acquired legally, nothing guarantees it will be exercised legally and the legality in force will not be transgressed.”26 For this very reason a healthy democracy cannot be reduced to the vote alone. Those who are elected democratically (although even this is open to question in the United States) may have no interest in the continuation of democracy and indeed may seek its destruction. The ability to publicly criticize and demand accountability from the government is also essential to the functioning of a healthy democracy. The balance of powers in the United States government was designed to guarantee the accountability of those in power to the public. The current executive, however, has sought to undermine this balance and thus the public’s ability to hold the executive accountable for its actions is diminished. Democracy must be reconceived as being inseparable from accountability and the public’s ability to freely criticize the government where they see ﬁ t. For democracy to be worthy of that name, we must once again take control of language, and, once again, we must say “no.”

#### Legalism cannot be neutral—how we produce knowledge about the law shapes how it is both interpreted and enforced—the aff is necessary to understand how executive authority over targeted killing exists in the first place—this is the prerequisite to crafting meaningful legal restrictions

**Krasmann 12**—prof. Dr, Institute for Criminological Research, University of Hamburg [added the word “the” for correct sentence structure—denoted by brackets]

(Susanne, “Targeted Killing and Its Law: On a Mutually Constitutive Relationship”, Leiden Journal of International Law (2012), 25, pp. 665–682, dml)

It was only with President Barack Obama’s ‘drone program’30 that targeted killing operations were systematically and more openly employed in the fight against terrorism. Since Obama entered office, there has reportedly been a conspicuous increase of aerial strikes, mainly in Pakistan. Targeted killing became a subject of public knowledge and thus publicly visible.31 As a security technology assigned to the context of military operations, the term itself then came to represent a rather new phenomenon of (mainly drone-launched) air strikes on a foreign territory – which, of course, **does not preclude** intelligence **continuing to play a crucial role in the fight against terrorism** and accomplishing respective missions.32 Yet, within the ‘theatre of war’, as this telling phrase indicates, the practice of killing political opponents takes an entirely different shape. The exercise of sovereign power sees itself authorized to **address corresponding bodies of law**, notably around ‘self-defence’ and ‘armed conflict’. It is with these legal references that **a justification of targeted killing operations apparently** ceases to be required, according to US State Department Legal Advisor Harald S. Koh:

Some have argued that the use of lethal force against specific individuals fails to provide adequate process and thus constitutes unlawful extrajudicial killing. But a state that is engaged in an armed conflict or in legitimate self-defense is not required to provide targets with legal process before the state may use lethal force.33

At the very same moment as targeted killing entered the public stage, **it became legalizable**. It did so as a security dispositif by locating itself within the legal discourse and at the same time relocating elementary conceptions of existing international law.

It was the identification of a new dimension of threats that, in the first instance, paved the way **for targeted killing’s surfacing on the political and legal stage**. With the ability to utilize weapons of mass destruction or to display the capacity to invent such weapons, contemporary terrorism has been perceived as competing with the destructive power of states and, at the same time,34 being organized in transnationally operating networks, as an unforeseeable threat. The rationale of facing this threat no longer consists of deterring the attack by a known enemy state, but of **pre-empting ‘the danger before it is known’ and** before it has a chance to even emerge.35 If international law was prepared to accommodate targeted killing in legal terms, this was also the case because radical uncertainty, in the sense of the unforeseeable and possible, **had already been introduced into legal reasoning**.36 The precautionary logic **constitutes a** crucial feature **of the new security dispositif – and a** condition of possibility **for targeted killing to be embraced by international law.** As a dispositif, targeted killing entails the claim of its being an appropriate response to the new dimension of threats. Its promise is that a limited, or ‘surgical’, intervention brings about the greatest effects. The rationale is to intercept, or preempt, any preparatory terrorist action and thereby figure out the source of the problem – in the present context, leaders and core figures of a terrorist organization – in order to disrupt the whole matter. Terror networks, through this lens, then, appear to be the mirror image of this dispositif. Rather than merely being a response to the presumed problem, targeted killing asserts that this kind of organization would in fact be its very structure. It thus **relocates the legal notions of war and self defence**, once clearly attributable to ‘the political space of sovereignty’,37 within an entirely new constellation. What is at stake is no longer the idea of a confrontation between states, but rather the concerted acts of individuals.

If targeted killing could re-emerge as a new phenomenon and **legitimate subject of legal debate**, gradually losing resemblance to the classical forms of political assassination, this induced a distinctive kind of politico-legal question. The fight against terrorism, namely, is to be assigned to the legal sphere of either warfare or crime control. This decision makes a considerable difference as regards both the rights of state authorities to exercise lethal force and the due-process guarantees of the impacted individuals.38 It is, however, only the traditional notion of sovereign states that suggests a clear distinction be made between foreign and internal affairs, military and criminal cases, war- and peacetime, in accordance with bodies of law. Reluctance to accept targeted killing as a legitimate measure, even when basically assenting to ‘the morality of killing in the context of war’,39 within this framework seems quite rational – that is to say, once targeted killing is regarded as being an instrument of ordinary law enforcement.40 Those clear distinctions, however, have always been an idealization. Wartime, which is thought of as an exception to the norm, intrudes into everyday life through both memories and anticipation.41 The presence of past wars in public debates is as much a testimony to this phenomenon as current political invocations to prepare for the next attack. There is also continuity between war- and peacetime that is reinforced by technologies and institutions.42 **The convertibility of military into civilian techniques**, and vice versa, is to mention just one facet: **the possible** double use **of drones in war- and in peace times another**. It is only the awareness of boundaries being blurred that is a rather recent phenomenon.43 And, in fact, to the extent that targeted killing replaces the notion of assassination, the targets themselves are no longer civilian political leaders, but terrorists44 – a term that comes to be located within the juridical debate beyond the distinction of soldier or civilian. If targeted killing today in the fight against terrorism appears to be an appropriate security technology, embedded within international law, this acceptance in turn is evidence of a new security dispositif’s becoming the norm.

Within a Foucauldian perspective, talk about a new security dispositif does not imply that one dispositif would replace the other altogether, but rather that established notions and practices become relocated and linked to new ones. Sovereign power thus in no way loses its significance, but sees itself **confronted with new challenges and obligations, and endowed with** new momentums **of authorization**. Targeted killing, in this sense, itself shapes state formation,45 namely **our understanding of** sovereignty, of **the** rule of law**, and** of **what is** a legal **and** an illegal practice. Rather than asking whether international law competes with the sovereignty of states, focus, within this perspective, is on how sovereignty transforms and constitutes itself anew by enforcing international law; how distinctions are being made, for example, between national and international legal matters or between laws of war and ordinary law enforcement; and what kinds of concept underlie legal norms and are being inscribed into the law.

3. A FOUCAULDIAN PERSPECTIVE ON LAW

Foucault did not elaborate on a comprehensive theory of law – a fact that critics have attributed to his allegedly underestimating law’s political and social relevance. Some statements by Foucault may have provoked this interpretation, among them his assertion that law historically ‘recedes’with,46 or is **being ‘colonized’** by,47 forms of knowledge that are addressed at **governing people and populations**. It is, though, precisely this analytical perspective that allows us to capture **the** mutually productive **relationship between targeted killing and the law**. In contrast to a widely shared critique, then, Foucault did not read law merely as a negative instrument of constraint. He referred, instead, to a particular mode of juridical power that operates in terms of repressive effects.48Moreover, rather than losing significance coextensively with the ancient sovereign power, law enters new alliances, particularly with certain knowledge practices and attendant expertise.49 This linkage proves to be relevant in the present context, considering not only **the interchange between the legal and political discourse on targeted killing**, but notably **the relationship between law and security**.

According to Foucault, **social phenomena** cannot be isolated fromand are only decipherable **within the** practices**,** procedures**, and** forms **of knowledge that allow them to surface as such**.50 In this sense, ‘all phenomena are singular, every historical or social fact is a singularity’.51Hence, they need to be studied within their historically and locally specific contexts, so as to account for both the subject’s singularity and the conditions of its emergence. It is against this background that a crucial question to be posed is **how targeted killing could emerge on the political stage as a subject of legal debate**. Furthermore, this analytical perspective on power and knowledge intrinsically being interlinked highlights that **our access to reality** always entails a productive moment. Modes of thinking, or what Foucault calls rationalities, **render reality conceivable and thus manageable**.52 They implicate certain ways of seeing things, **and they** induce truth effects whilst translating into practices and technologies of government. These do not merely address and describe their subject; they constitute or produce it.53

Law is to be approached accordingly.54 It cannot be extracted **from the forms of knowledge that enact it**, and it is in this sense that law is only conceivable as practice. Even if we only think of the law in ideal terms, as being designated to contain governmental interference, for example, or to provide citizens’ rights, **it is already a practice and** a form of enacting the law. To enforce the law is always a form of enactment, since it involves a productive moment of **bringing certain forms of knowledge into play and of** rendering legal norms meaningful **in the first place**. Law is susceptible to certain forms of knowledge and rationalities in a way that **these constitute it and shape legal claims**. Rather than on the application of norms, legal reasoning is on the production of norms.

Legality, within this account of law, then, is not only due to a normative authority that, based in our political culture, is external to law, nor is it something that is just inherent in law, epitomized by the principles that constitute law’s ‘innermorality’.55 Rather, **the enforcement of law and its attendant reasoning produce their own –** legal **– truth effects**. Independently of the purported intentions of the interlocutors, **the juridical discourse on targeted killing leads to**, in the first instance, conceiving of and receiving the subject in legal terms.

When targeted killing surfaced on the political stage, **appropriate laws** appeared to be already at hand. ‘There are more than enough rules for governing drone warfare’, reads the conclusion of a legal reasoning on targeted killing.56 Yet, accommodating the practice in legal terms means that international law itself is undergoing a transformation. The notion of dispositifs is useful in analysing such processes of transformation. It **enables us to grasp the** minute displacements **of established legal concepts** that,57 while undergoing a transformation, at the same time **prove to be** faithful to their previous readings. The displacement of some core features of the traditional conception of the modern state reframes the reading of existing law. Hence, to give just one example for such a rereading of international law: legal scholars raised the argument that neither the characterization of an international armed conflict holds – ‘since al Qaeda is not a state and has no government and is therefore incapable of fighting as a party to an inter-state conflict’58 – nor that of an internal conflict. Instead, the notion of dealing with a non-international conflict,59 which, in view of its global nature, purportedly ‘closely resembles’ an international armed conflict, serves to provide ‘a fuller and more comprehensive set of rules’.60 Established norms and rules of international law are preserved formally, but **filled with a** radically different meaningso as to eventually integrate the figure of a terrorist network **into its conventional understanding**. Legal requirements are thus meant to hold for a drone programme that is accomplished both by military agencies in war zones and by military and intelligence agencies targeting terror suspects beyond these zones,61 since the addressed is no longer a state, but a terrorist network.

However, to conceive of law as a practice does not imply that law would be susceptible to any form of knowledge. Not only is its reading itself based on a genealogy of practices established over a longer period.62 Most notably, the respective forms of knowledge are also embedded in varying procedures and strategic configurations. If law is subject to an endless deference of meaning,63 this is not the case in the sense of arbitrary but historically contingent practices, but in the sense of historically contingent practices. Knowledge, then, is not merely an interpretive scheme of law. Rather than merely on meaning, [the] focus is on practices that, **while materializing and producing attendant truth effects,** shape the distinctions we make **between legal and illegal measures**. What is more, as regards anticipatory techniques to prevent future harm, this perspective allows for our scrutinizing the division made between what is presumably known and what is yet to be known, and between what is presumably unknown and has yet to be rendered intelligible. This prospect, as will be seen in the following, is crucial for a rereading of existing law. It was the identification of a new order of threat since the terror attacks of 9/11 that brought about a turning point in the reading of international law. The identification of threats in general provides a space for transforming the unknowable into new forms of knowledge. **The indeterminateness itself of legal norms proves to be a tool** for introducing a new reading of law**.**

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#### our ethics are self-reflexive—that solves violence

**Fasching 93** (Darrell, professor of religious studies at the University of South Florida, *The Ethical Challenge of Auschwitz and Hiroshima: Apocalypse or Utopia* pg 5-7, dml) [“s” added for correct highlighted sentence structure, denoted by brackets]

The best way to describe the "style" of the theology of culture proposed in these books is to suggest that it is a "decentered" or "alienated theology." Alienated theology is the opposite of apologetic theology. Apologetic theology typically seeks to defend the "truth" and ''superiority" of one's own tradition against the "false," "inferior," and "alien" views of other traditions. Alienated theology, by contrast, is theology done "as if" one were a stranger to one's own narrative traditions, seeing and critiquing one's own traditions from the vantage point of the other's narrative traditions. It is my conviction that alienated theology is the appropriate mode for theology in an emerging world civilization-a civilization tottering in the balance between apocalypse and utopia. There are two ways to enter world history, according to the contemporary author John Dunne: you can be dragged in by way of world war or you can walk in by way of mutual understanding. By the first path, global civilization emerges as a totalitarian project of dominance that risks escalating into a nuclear apocalypse. By the second path, we prevent[s] the first, creating global civilization through an expansion of our understanding of what it means to be human. This occurs when we pass over to an other's religion and culture and come back with new insight into our own. Gandhi is an example, passing over to the Sermon on the Mount and coming back to the Hindu Bhagavad Gita to gain new insight into it as a scripture of nonviolence. Gandhi never seriously considered becoming a Christian but his Hinduism was radically altered by his encounter with Christianity. One could say the same (reversing the directions) for Martin Luther King Jr., who was deeply influenced by Gandhi's understanding of nonviolent resistance in the Gita. When we pass over (whether through travel, friendship, or disciplined study and imagination) we become "strangers in a strange land" as well as strangers to ourselves, seeing ourselves through the eyes of another. Assuming the perspective of a stranger is an occasion for insight and the sharing of insight. Such crosscultural interactions build bridges of understanding and action between persons and cultures that make cooperation possible and conquest unnecessary. "Passing over" short circuits apocalyptic confrontation and inaugurates utopian new beginnings-new beginnings for the "post-modern'' world of the coming third millennium. Gandhi and King are symbols of a possible style for a postmodern alienated theology. To be an alien is to be a stranger. To be alienated is to be a stranger to oneself. We live in a world of ideological conflict in which far too many individuals (whether theists or a-theists) practice a "centered theology" in which they are too sure of who they are and what they must do. Such a world has far too many answers and not nearly enough questions and selfquestioning. A world divided by its answers is headed for an inevitable apocalyptic destiny. However, when we are willing to become strangers to ourselves (or when we unwillingly become so), new possibilities open up where before everything was closed and hopeless. At the heart of my position is the conviction that the *kairos* of our time calls forth the badly neglected ethic of "welcoming the stranger" that underlies the biblical tradition and analogously "welcoming the outcast" that underlies the Buddhist tradition. This care for the stranger and the outcast, I shall argue, provides the critical norm for identifying authentic transcendence as self-transcendence. Centered theologies, whether sacred or secular, theist or a-theist, are ethnocentric theologies that can tolerate the alien or other, if at all, only as a potential candidate for conversion to sameness. Centered theologies are exercises in narcissism that inevitably lead down apocalyptic paths like those that led to Auschwitz and Hiroshima. Why? Because such theologies, whether sacred or "secular," cannot permit there to be others in the world whose way of being might, by sheer contrast, cause self-doubt and self-questioning. When as a student I read Paul Tillich, I found it hard to believe him when he said that the questions were more important than the answers. I was so taken with his answers that I was sure he was just trying to be modest. What really mattered were the answers. Since then, I have come to realize that answers always seem more important and more certain to those who have come by them without wrestling with the questions. I know now that Tillich was quite serious and quite rightthe questions are indeed more important. I have come to find a fullness in the doubts and questions of my life, which I once thought could be found only in the answers. After Auschwitz and Hiroshima, I distrust all final answers-all *final solutions*. Mercifully, doubts and questions have come to be so fulfilling that I find myself suspicious of answers, not because they are necessarily false or irrelevant, but because even when relevant and true they are, and can be, only partial. It is doubt and questioning that always lures me on to broader horizons and deeper insights through an openness to the infinite that leaves me contentedly discontent. Alienated theology understands doubt and the questions that arise from it as our most fundamental experience of the infinite. For, our unending questions keep us open to the infinite, continually inviting us to transcend our present horizon of understanding. In a like manner, the presence of the stranger continuously calls us into question and invites us to transcend the present horizon of the egocentric and ethnocentric answers that structure our personal and cultural identities. An alienated theology understands that only a faith which requires one to welcome the alien or stranger is truly a utopian faith capable of transforming us into "new beings" who are capable of creating a new world of pluralistic human interdependence.

**Romanillos 11**—Lecturer in Physical Geography at the University of Exeter

(Jose Luis, “Geography, Death, and Finitude”, Environment and Planning vol. 43, 2011, pg 2533-2553, dml)

As noted above, a broad stream of continental theorists posit an intimate relation between language and death: from Foucault's assertion concerning the ``kinship between writing and death'' (1977, page 116), to Derrida's Egyptian grammatology and the crucial role played by the mythology of Thoth in his deconstruction of onto-theology (see Derrida, 1981, pages 84 ^ 94; 1997; Sloterdijk, 2009). For Blanchot language and literature are explicitly conceived as spaces of death; words revealing the finitude of the material existences, beings, and worlds they paradoxically both present and render absent (Blanchot, 1995). Despite the variety of different articulations and understandings of finitude presented in this paper, a common theme has been its function in constructing or sedimenting anthropocentric perspectives concerning language, knowledge, and the spatiality proper to the human. The implications here are that geographical attempts to write the worlds and spaces both of human and of nonhuman beings need to become aware of how a distinctively anthropocentric notion of finitude `grounds' the epistemological and phenomenological basis of that writing. For this reason I consider finitude to be an important geographical notion precisely because the beauty of the geographical imagination, as affirmed in Hagerstrand's paper on nature and society, is to radically put into question the concepts, histories, and assumptions at work in anthropocentric thought; to upset the subterraneous epistemological articulation of the earth as the `home' of `man'; and to expose human thought to its limits and `outside' of what Meillassoux has recently described as the ``great outdoors'' (2008, page 7). In short, a writing of the earth which takes finitude seriously necessarily troubles the borders and limits partitioned through anthropocentric logic. I also consider finitude to be an important geographical notion because—precisely an account of its philosophical history—it can be used to rethink and rework accounts of ethics which are seeking to radically challenge the humanist bases of thought and normative action (cf Lulka, 2009). An important contribution to this discussion of ethics beyond the boundaries of the human can be found in Cary Wolfe's ``Flesh and finitude: thinking animals in (post)humanist philosophy'' (2008). For Wolfe, thinking finitude offers a way into attempts to ethically address the nonhuman in posthumanist philosophies: ``the fundamental ethical bond we have with non-human animals resides in our shared finitude, our vulnerability and mortality as `fellow creatures''' (page 23).(11) The key claim in the context of Western ethics is that this shared finitude goes beyond traditional anthropocentric distinctions concerning the capacities for reason and language, but falls upon a radical passivity for finitude that cannot be said to be a `capacity', `attribute' or `property' of a particular being (cf Greenhough and Roe, 2010; Roe, 2010). Whilst I agree with the ethos of Wolfe's article and the claim that addressing finitude provides an important way of developing compassion and ethics beyond human limits, I think it is important, as my discussions of Heidegger, Foucault, Bataille, and Agamben highlight, to recognise that the conceptual history of finitude is not immune from charges of anthropocentrism. The difficulty of deconstructing anthropocentric perspectives, as Jane Bennett has recently outlined in Vibrant Matter (2010), does not lie solely in the task of eliminating theological hierarchical categorisations of life, or of bringing down human hubris. Rather, it is that the very posing of the question—speaking about it, naming it, writing it—and the related gesture of approaching the independence of animals, matter, and the `things themselves' are both phenomenologically constituted within a human horizon of sense. As she describes this correlation: ``is it not a human subject who is articulating this theory of vibrant matter?'' (page ix). Bennett's answer is to engage in a certain amount of anthropomorphism and animism; to extend our intrahuman ethical responsibilities to nonhumans by, as it were, forgetting any essential abyss between humans, animals, and things. In this way, and in an interesting reversal of Heidegger's position concerning the nonhuman, anthropomorphism is said to contribute to an erosion of anthropocentrism. As I hope to have demonstrated in this paper, finitude is an important conceptual figure in this debate because of its historical role in determining the boundaries of the human, and the epistemological phenomenological ways in which entities beyond the human are conceived. Rather than making claims about how the notion of finitude is most `authentically' thought, approached, or represented, in this paper I have aimed to expose and question some of the conceptual histories and philosophical perspectives bound up with the notion. In so doing, I have, hopefully, demonstrated how the notion insinuates itself across a series of key geographical concepts, languages, and debates. Further, I have claimed that a geographical writing of finitude in turn offers a way of destabilising the authentic borders and limits bound up with the notion. By way of conclusion, I want to outline briefly what I consider to be the ethical promise of finitude. Firstly, finitude demands to be thought in terms of a shared exposure to death that com-passionately approaches every being beyond any representational identification to, or derivation from, an authentic human subjectivity. Here, rather than simply acknowledging the anthropocentric basis of finitude and then proclaiming to get beyond it so as to `unshackle existence' from finitude—as proposed in the work of Badiou—the analytic history of finitude can itself be reworked for the contemporary projects of thinking matter, nature, and world differently. As the work of Nancy shows, to rethink finitude as a shared exposure in this way is to also rethink the spatialities of the world. At the same time, a critical deconstruction and ungrounding of the analytic history of the notion of finitude helps further trouble and suspend what Agamben refers to as the anthropological machine of `suspension' (2004, page 92), with its partitions between human and animal, organic and inorganic. Perhaps we can reread Hagerstrand's affirmation for a geographical thinking of finitude as an important ethical project precisely in this light: to question how the spaces and borders of finitude are mapped, to consider the ethical consequences of those partitions, and to experiment with how a thinking of finitude might write the world differently.

#### All philosophy is a function of human consciousness – the alt can never divorce itself from humanist thinking

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Anyway, it is very difficult for us to deny that we philosophers live in a humanistic age. The dominant philosophical doctrine of our time, today's intellectual Zeitgeist, is that the world is a world structured by us and forged by the architectural propensities of our mind. This is the Kantian turn in philosophy. Reality as it is in itself, noumenal reality, is essentially unknowable, and philosophy, accordingly, shifts from the study of being- qua-being to the study of being-qua-known. Philosophy as first philosophy is the study of the structuring activities of the human mind and the philosophy of thought. This much has been the orthodoxy ever since Kant. Just think how much of philosophy in the twentieth century has been shaped by, and makes little sense without, this tenet.[[23]](http://www.eubios.info/ABC4/abc4304.htm#23) The so called linguistic turn, until quite recently, dominated philosophy in the Anglo-American world, was essentially a linguistic form of Kantianism, constituted by appending to the Kantian turn one of the two claims; either the structure of language determines the structure of cognition, or the structure of language mirrors the structure of cognition. In a similar view, much of the twentieth century Philosophy of Science has been exercised by the question of the so-called theory impregnation of observation. And, in accordance with the Kantian spirit of our time, this claim about the content of observation becomes translated into a claim about the content of reality. It is not just observation but the reality observed that is laden with theory. And if we switch from so called Analytic Philosophy to the allegedly antagonistic *continental* alternative, the essentially Kantian organizing vision remains. Even Heidegger, who is in many respects a very unKantian thinker, and who in fact explicitly describes his position as anti-humanist, tells us that man is the lightening up place of being, the place where beings come to be. And in the structuralist and post- structuralist tradition, one could say, without an inordinate amount of oversimplification, that the role played by the mind in Kant's worldview is played by 'the text'.[[24]](http://www.eubios.info/ABC4/abc4304.htm#24) The term 'humanism', we may say, denotes the neo-Kantian, neo-idealist, view that the world depends for its existence, nature and properties on the human mind. A typical accompaniment is this claim of ontological dependence, an accompaniment clearly expressed in Kant's conception of philosophy as the philosophy of the thought is that the world is epistemologically dependent on human consciousness. If we want to know philosophically the world, we must study the products of this consciousness - language, theory, text or whatever that constitutes it as such. But if the world is ontologically and epistemologically dependent on human consciousness, then it is very difficult to see how it can be anything other than axiologically depends on this consciousness also. If the world dependents its reality on the activities of human consciousness, then it must almost certainly depend for its worth on human consciousness too. Hence, here is the dilemma of environmental philosophy. Environmental philosophy is the branch of philosophy concerned with the worth, the value, of the environment.[[25]](http://www.eubios.info/ABC4/abc4304.htm#25)

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#### the targeted killing debate needs to be situated outside of the juridical matrix to make this space politically productive

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(Susanne, “Targeted Killing and Its Law: On a Mutually Constitutive Relationship”, Leiden Journal of International Law (2012), 25, pp. 665–682, dml)

Giorgio Agamben maintains that a legal norm, because abstract, does not stipulate its application.102 ‘Just as between language and world . . . there is no internal nexus’ between them. The norm, in this sense, exists independent of ‘reality’. This, according to Agamben, allows for the norm in the ‘state of exception’ both to be applied with the effect of ‘ceasing to apply’103 – ‘the rule, suspending itself, gives rise to the exception’104 – and to be suspended without being abolished. Although forming part of and, in fact, being the effect of applying the law, the state of exception, in Agamben’s view, disconnects from the norm. Within a perspective on law as practice, by contrast, **there is no such difference between norm and reality**. Even to ignore a pertinent norm constitutes an act that has a meaning, namely that the norm is not being enforced. It affects the norm. **Targeted killing operations**, in this sense, can never be extra-legal.105 On the contrary, provided that illegal practices come up systematically, they eventually will effectuate the transformation of the law. Equally, the exception from the norm not only suspends the norm, transforming it, momentarily or permanently, into a mere symbol without meaning and force, but at the same time also **impinges upon the validity of that norm**. Moreover, focus on the exception within the present context falls short of capturing a rather gradual transitional process that both **resists a binary deciphering of either legal or illegal and is not a matter of suspending a norm**. As practices deploying particular forms of knowledge, **targeted killing and its law** mutually constitute each other, **thus re-enforcing a new security dispositif**. **The** appropriate research question **therefore is** how positive law changes its framework of reference. Targeted killing, once perceived as illegal, **now appears to be a legal practice** on the grounds of a new understanding of international law’s own elementary concepts. The crux of the ‘compulsion of legality’ is that **legality itself is a shifting reference**.

Seen this way, the United States does not establish targeted killing as a legal practice on the grounds of its internationally ‘possessing’ exceptional power. Rather the reverse; it is able to employ targeted killing as a military tactic, **precisely because this is** accepted by the legal discourse. As a practice, targeted killing, in turn, reshapes our understanding of basic concepts of international law. **Any dissenting voice** will now be heard with more difficulty, since targeted killing is a no longer an isolated practice but, **within the now establishing security dispositif, appears to be** appropriate **and** rational. **To counter the legal discourse**, then, **would require** to interrupt it**,** rather than to respond to it, and to move on to its political implications that are rather tacitly involved in the talk about threats and security, and in the dispute about targeted killing operations’ legality.

6. CONCLUSION

Analysing targeted killing that has asserted itself as a tactic in the US fight against terrorism within a Foucauldian perspective challenges common normative approaches in legal theory towards this phenomenon. Identifying the tactic as residing between the alternatives of either being accomplished illegally or being legal **misses** some important points – first of all, **that** there is a process at work. While presenting itself as a military tactic employed in the name of defending a threatened population, targeted killing today appears to be a new phenomenon that discarded its historical association with political assassination. As a security dispositif, second, it displaces some of the established co-ordinates of international law that are able to formally stick to established legal principles. The identification of a new dimension of threats thereby marked the turning point for a new reading of international law, as it provided a space for transforming the unknowable threat into new forms of knowledge. Third, legal reasoning **that tries,** whether in supportive or critical terms**, to make sense of the current incoherence in international law** contributes to the legal acceptance of targeted killing. This is because legal reasoning, couching the issue in legal terms, **constitutes a normative reality of its own**. There is, then, finally, no superior normativity the law could be measured against and therefore **nothing principally unlegalizable**. Instead, the normative authority resides in the law itself. It is, though, neither a quality of law as such nor merely something society attributes to the law. It lies in the very moment of law’s enactment, whereas its significance depends upon the knowledge and claims thus brought into play.

#### Definitions links to our sovereign decisionmaking disad

**Maggio 7**—University of Florida

(J., “The Presidential Rhetoric of Terror: The (Re)Creation of Reality Immediately after 9/11”, Politics & Policy Volume 35, Issue 4, pages 810–835, December 2007, dml)

Zarefsky's (2004) argument that the president has the power of “definition” should not be taken as the power to “persuade” in the standard way this is understood. Rather, the power lies in setting the limits of debate and/or reality. In fact, Zarefsky agrees with Edwards (2003) that explicit votes or opinions are not often changed by presidential rhetoric. Yet Zarefsky argues that presidential rhetoric has an even more important role: the role to shape reality. On his account, social reality is not a predetermined set of ideas; it is a contingent set of social indicators. In this sense, all people participate in the creation of reality and its political ramifications. This “reality creation” is especially true for the president. Naming a situation provides the basis for understanding it and determining the appropriate response. Because of his prominent political position and his access to the means of communication, the president, by defining a situation, might be able to shape the context in which events or proposals are viewed by the public. (Zarefsky 2004, 611) Social reality is therefore not fixed—especially social reality that is mediated through news outlets and government spokesmen. “Reality” is fluid, and it is often shaped by presidential rhetoric (Miroff 2003, 278-80; Rubenstein 1989). The president's greatest power in shaping reality rests in the power of definition. To “define” something is to set the limits of cognition regarding that concept. Zarefsky (2004, 612) articulates his theory of “definition” in the following way. To choose a definition is, in effect, to plead a cause, as if one were advancing a claim and offering support for it. But no explicit claim is offered and no support is provided. The presidential definition is stipulated, offered as if it were natural and uncontroversial rather than chosen and contestable. Hence, to “define” is to assert without argument that something is “true” or “real.” It is to claim, in a Jeffersonian sense, that such statements are “self-evident.” Of course, at the moment of definition those terms often become the parameters of definition. It is through this moment that the president creates a kind of intellectual sovereignty. As both the chief executive and the national spokesperson, the president occupies a unique position in which to create a moment of singular definition.

#### They situate decisionmaking in terms of sovereign power—that precludes deliberation and replicates violent preemptive politics

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(Liam, “Securitizing the Future? A Critical Interrogation of the Pre-emptive Turn in the Theory and Practice of Contemporary Security”, Presented at the Canadian Political Science Association Annual Conference Concordia University, Montréal, QC 1-3 June 2010, dml)

A second broader consequence of pre-emptive security that can be extrapolated from the account developed here is the emergence of **a depoliticizing impetus that** significantly curbs the influence **of democratic deliberative forces** on the governance of security. In this regard, the points made in this paper relating to the narrative of imminence that underpins pre-emptive security and the related account of **the “lightning decision”** are of particular import, as they make clear that **the political space for democratic deliberation regarding the governance of security is** diminished **by the adoption of a pre-emptive rationality**. Specifically, there are two related ways in which this is the case. Firstly, under the rationality of pre-emptive security, **any debate as to whether or not to act is** all but preordained, as the narrative of imminent catastrophe that characterizes the logic of pre-emption implies that **action must be taken, regardless of the prevailing uncertainty**. Under such circumstances, “there is little need for public deliberation and debate,” since **the potential imminence of catastrophe suggests that there is no alternative but to act now** (Elmer & Opel 2006: 479).

Secondly, the radical uncertainty against which this imperative emerges unavoidably **locates the basis for the ultimate decision regarding what precisely is to be done** in the realm of the sovereign imagination. This vests in the sovereign decider(s) **a radical decisional subjectivity**, rendering the prospect of democratic deliberation ultimately irrelevant, since the informational basis that frames the terms of the decision **consists of** imagined futures **and** affective facts **that are necessarily** of the sovereign’s own construction. Once again, the façade of (inter)national debate in the lead-up to the 2003 invasion of Iraq is perhaps the best illustration of these dual, anti-democratic aspects of preemptive security (see Ehrenberg et al. 2010: passim; Kessler & Daase 2008: 226); although it merits emphasizing once more that such de-politicization is to a significant degree **inherent in the logic of preemption itself** rather than limited to the decisions behind that one particular case. Accordingly, **critical interventions** must remain cognizant **of this process of democratic closure**, while also recognizing that it is at least as much a structural result of the logic of pre-emptive security as it is a specific effect of the idiosyncratic policy decision(s) of a particular governmental authority.

#### Dialogue tho

**Livingston 12**—Assistant prof of Government @ Cornell [**purple=slow**]

(Alexander, “Avoiding Deliberative Democracy? Micropolitics, Manipulation, and the Public Sphere”, Philosophy & Rhetoric, Vol. 45, No. 3 (2012), pp. 269-294, dml)

It is important here to stress what a critical theory of deliberative democracy is not.16 It is not the gentlemanly sport of cool, calm, and dispassionate exchange of impartial reasons. It does not depend on the knockdown force of the better argument in a single-round, one-on-one, face-to-face bout of verbal jousting. It is not the reduction of political debate to a matter of logical demonstration. And it is not a clinical exer- cise wherein citizens are extracted from their concrete political world and placed in an artificially domination-free space of the ideal speech situa- tion or deliberative focus group**.** All of these proposals, not to mention others, have been put forward in one form or another under the banner of deliberative democracy.17 If theories of deliberative democracy were limited to these options, Connolly would be right to charge them with an intel- lectualism that ignores the vagaries of lived political praxis. However, a critical theory of deliberative democracy provides both an alternative to this deliberative intellectualism as well as to Connolly’s democratic deficit. The key to this alternative approach to democracy overlooked by both Connolly and these intellectualist theories of deliberation is the complex institution of the public sphere. The public sphere is the decentered network of voluntary associations and media channels that crisscross civil society. It has no center or hub it radiates out of. Rather it is a rhizome in Deleuze and Guattari’s sense of the term: a multiplicity of lively points and intersections that hang together that lacks organization and is not subject to central control. Philippe Mengue makes just this point about the nature of the public sphere when he criticizes Deleuze and Guattari’s antipathy toward the idea of politics as the expression and contestation of public reasons. The public sphere, as he rightly notes, is precisely the kind of deterritorialized plane where movement and becoming can occur.18 Deliberative democracy is a model of democracy that explains how ideas circulate in such a public sphere; that is, how they bump into other ideas, transform them, and become transformed themselves in turn. Key to a critical theory of deliberative democracy is the claim that the exchange of reasons within this rhizomatic public sphere is what Jürgen Habermas calls “subjectless” (1996, 299). A public sphere is always more than the prudential exchange of reasons between two parties, but it is also always less than a self-reflection of a macrosubject capable of action. Rather, it is a complex mediating institution that allows ideas and reasons to become public—that is, it circulates and distributes reasons and ideas beyond the bounds of local conversations, turning them into resources to be drawn on, tested, and sometimes rejected in more local exercises of reason giving. Crucially, the reasons that do all this circulating in the public sphere must be understood in an expansive sense. At the level of democratic the- ory, no one form of discourse has a monopoly on what counts as a reason. Deliberative democracy recognizes diverse forms of communication as reason giving, including storytelling, rhetoric, and greeting. Each has a place in a deliberative politics insofar as it is capable of drawing a connec- tion between a particular claim or experience and a more general and acces- sible norm (Young 2000, 52–80; Dryzek 2000, 57–80). A public reason is always a reason for doing or avoiding doing something. First-person stories like those W. E. B. Du Bois tells in The Souls of Black Folk are vivid depic- tions of the experience of racial oppression, but they function as reasons to a nonblack audience insofar as they aim to open the eyes of white America to the complacency of its commitments to liberty and equality. A public sphere is a site where these sorts of reasons are articulated and take on broader and richer meanings, as they are received by an indefinite audience of strangers.19 The informal and diffuse network of information that spans from labor meetings to church groups to book clubs to blogs to newspapers to PTA meetings and to dissident groups carries our reasons across multiple testing sites where they are subject to uptake, rejection, or transformation, only to be recirculated again. This public exchange of reasons has the important epistemic function of improving the quality of the reasons we use to justify our interests and decisions, but the more crucial function is its critical one. The articulation and contestation of reasons in the public sphere is a motor for self-reflection. It is this function, the self-critical and self-reflection function of exposure to diverse and impersonal reasons in a public sphere, that deliberative democracy values. While the media-saturated public sphere trades in low-involvement advertising and affective manipulation, it also and more importantly can be a means of provoking us to reflect on our received identities and interests.20 These epistemic and critical functions of the public sphere come together to provide a democratic resource for inciting self- and collective transformation in novel and potentially eman- cipatory ways. Seen as a molecular interplay of constantly flowing, shifting, and transforming reasons and self-understandings that provokes new and creative (but reflective) becomings that help us cope with the challenges of political community, the circulation of ordinary talk in the public sphere is Deleuzian. The public sphere is an example of micropolitics par excellence. Once we introduce this institution of the public sphere into the discus- sion, we avail ourselves of a democratic alternative to Connolly’s politics of “cultural-corporeal infusion.” The task of generating resonance for a leftist politics can be divorced from the idea of manipulating visceral responses in favor of a politics that experiments with how reasons resonate in the public sphere, that is, with how they might function to provoke self-reflection. Reasons resonate when they make some claim on the moral and concep- tual imaginary of their audience. That is to say, their resonance is not a feature of their logical structure but rather of the receptivity of the audience to them. A reason resonates when its audience considers it what William James called a “live” hypothesis, “one which appeals as a real possibility to him to whom it is proposed” (1967, 717). Making reasons resonate, however, is the task of activists and social movements who introduce new concerns to the public sphere and rede- scribe acceptable existing practices as oppressive and harmful. To this end, an egalitarian and inclusive public sphere requires the insurgent work of its voluntary associations in the form of “deliberative enclaves” (Mansbridge 1999) or “counterpublics” (Fraser 1992) where dissidents, interests groups, social movements, and the oppressed experiment with novel discourses and redescriptions of the status quo to introduce into the public sphere’s circu- lation. When these experiments in consciousness-raising are successful, as with the feminist movement’s introduction of “date rape,” the queer move- ment’s turn away from civil unions in favor or “gay marriage” and Stephen Colbert’s introduction of “truthiness” into the American political lexicon, the terms of resonance in the public sphere change. Coining terms like “gay marriage” is not the same thing as institutionalizing it, but it does have the effect of redefining the terms of public debate around a now resonant expe- rience of exclusion that had hitherto been simply invisible or erroneously seen as harmless. To put this in the language of Deleuze, deliberative redescription can function as a war machine. The experimenting with resonating reasons in a public on the part of activists is an exercise in “plugging in” a resonance machine into the public sphere. The transformative power of the resonance machine, understood as an inventive redescription of our received practices, has the power to transform the way citizens see their shared world, their own interests, and the suffering of others. The work of counterpublics is to “smooth” the striated space of public political culture so as to displace old prejudices and allow new identities and claims to flourish.

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#### Use the law to reconceive the human

**Butler 4**—not Judy

(Judith, *Precarious Life* pg 86-92, dml)

So, these prisoners, who are not prisoners, will be tried, if they will be tried, according to rules that are not those of a constitutionally defined US law nor of any recognizable international code. Under the Geneva Convention, the prisoners would be entitled to trials under the same procedures as US soldiers, through court martial or civilian courts, and not through military tribunals as the Bush administration has proposed. The current regulations for military tribunals provide for the death penalty if all members of the tribunal agree to it. The President, however, will be able to decide on that punishment unilaterally in the course of the final stage of deliberations in which an executive judgment is made and closes the case. Is there a timeframe set forth in which this particular judicial operation will cease to be? In response to a reporter who asked whether the government was not creating procedures that would be in place indefinitely, "as an ongoing additional judicial system created by the executive branch," General Counsel Haynes pointed out that the "the rules [for the tribunals] ... do not have a sunset provision in them ... I'd only observe that the war, we think, will last for a while." One might conclude with a strong argument that government policy ought to follow established law. And in a way, that is part of what I am calling for. But there is also a problem with the law, since it leaves open the possibility of its own retraction, and, in the case of the Geneva Convention, extends "universal" rights only to those imprisoned combatants who belong to "recognizable" nation-states, but not to all people. Recognizable nation-states are those that are already signatories to the convention itself. This means that stateless peoples or those who belong to states that are emergent or "rogue" or generally unrecognized lack all protections. The Geneva Convention is, in part, a civilizational discourse, and it nowhere asserts an entitlement to protection against degradation and violence and rights to a fair trial as universal rights. Other international covenants surely do, and many human rights organizations have argued that the Geneva Convention can and ought to be read to apply universally. The International Committee of the Red Cross made this point publicly (February 8, 2002). Kenneth Roth, Director of Human Rights Watch, has argued strongly that such rights do pertain to the Guantanamo Prisoners (January 28, 2002), and the Amnesty International Memorandum to the US Government (April 15, 2002), makes clear that fifty years of international law has built up the assumption of universality, codified clearly in Article 9(4) of the International Covenant on Civil and Political Rights, ratified by the US in 1992. Similar statements have been made by the International Commission on Jurists (February 7, 2002) and the Organization for American States human rights panel made the same claim (March 13, 2002), seconded by the Center for Constitutional Rights (June ro, 2002). Exclusive recourse to the Geneva Convention, itself drafted in 1949, as the document for guidance in this area is thus in itself problematic. The notion of "universality" embedded in that document is restrictive in its reach: it counts as subjects worthy of protection only those who belong already to nation-states recognizable within its terms. In this way, then, the Geneva Convention is in the business of establishing and applying a selective criterion to the question of who merits protection under its provisions, and who does not. The Geneva Convention assumes that certain prisoners may not be protected by its statute. By clearly privileging those prisoners from wars between recognizable states, it leaves the stateless unprotected, and it leaves those from nonrecognized polities without recourse to its entitlements. Indeed, to the extent that the Geneva Convention gives grounds for a distinction between legal and illegal combatants, it distinguishes between legitimate and illegitimate violence. Legitimate violence is waged by recognizable states or "countries," as Rumsfeld puts it, and illegitimate violence is precisely that which is committed by those who are landless, stateless, or whose states are deemed not worth recognizing by those who are already recognized. In the present climate, we see the intensification of this formulation as various forms of political violence are called "terrorism," not because there are valences of violence that might be distinguished from one another, but as a way of characterizing violence waged by, or in the name of, authorities deemed illegitimate by established states. As a result, we have the sweeping dismissal of the Palestinian Intifada as "terrorism" by Ariel Sharon, whose use of state violence to destroy homes and lives is surely extreme. The use of the term, "terrorism," thus works to delegitimate certain forms of violence committed by non-state-centered political entities at the same time that it sanctions a violent response by established states. Obviously, this has been a tactic for a long time as colonial states have sought to manage and contain the Palestinians and the Irish Catholics, and it was also a case made against the African National Congress in apartheid South Africa. The new form that this kind of argument is taking, and the naturalized status it assumes, however, will only intensify the enormously damaging consequences for the struggle for Palestinian self-determination. Israel takes advantage of this formulation by holding itself accountable to no law at the very same time that it understands itself as engaged in legitimate self-defense by virtue of the status of its actions as state violence. In this sense, the framework for conceptualizing global violence is such that "terrorism" becomes the name to describe the violence of the illegitimate, whereas legal war becomes the prerogative of those who can assume international recognition as legitimate states. The fact that these prisoners are seen as pure vessels of violence, as Rumsfeld claimed, suggests that they do not become violent for the same kinds of reason that other politicized beings do, that their violence is somehow constitutive, groundless, and infinite, if not innate. If this violence is terrorism rather than violence, it is conceived as an action with no political goal, or cannot be read politically. It emerges, as they say, from fanatics, extremists, who do not espouse a point of view, but rather exist outside of "reason," and do not have a part in the human community. That it is Islamic extremism or terrorism simply means that the dehumanization that Orientalism already performs is heightened to an extreme, so that the uniqueness and exceptionalism of this kind of war makes it exempt from the presumptions and protections of universality and civilization. When the very human status of those who are imprisoned is called into question, it is a sign that we have made use of a certain parochial frame for understanding the human, and failed to expand our conception of human rights to include those whose values may well test the limits of our own.

The figure of Islamic extremism is a very reductive one at this point in time, betraying an extreme ignorance about the various social and political forms that Islam takes, the tensions, for instance, between Sunni and Shiite Muslims, as well as the wide range of religious practices that have few, if any, political implications such as the da'wa practices of the mosque movement, or whose political implications are pacifist. If we assume that everyone who is human goes to war like us, and that this is part of what makes them recognizably human, or that the violence we commit is violence that falls within the realm of the recognizably human, but the violence that others commit is unrecognizable as human activity, then we make use of a limited and limiting cultural frame to understand what it is to be human. This is no reason to dismiss the term "human," but only a reason to ask how it works, what it forecloses, and what it sometimes opens up. To be human implies many things, one of which is that we are the kinds of beings who must live in a world where clashes of value do and will occur, and that these clashes are a sign of what a human community is. How we handle those conflicts will also be a sign of our humanness, one that is, importantly, in the making. Whether or not we continue to enforce a universal conception of human rights at moments of outrage and incomprehension, precisely when we think that others have taken themselves out of the human community as we know it, is a test of our very humanity. We make a mistake, therefore, if we take a single definition of the human, or a single model of rationality, to be the defining feature of the human, and then extrapolate from that established understanding of the human to all of its various cultural forms. That direction will lead us to wonder whether some humans who do not exemplify reason and violence in the way defined by our definition are still human, or whether they are "exceptional" (Haynes) or "unique" (Hastert), or "really bad people" (Cheney) presenting us with a limit case of the human, one in relation to which we have so far failed. To come up against what functions, for some, as a limit case of the human is a challenge to rethink the human. And the task to rethink the human is part of the democratic trajectory of an evolving human rights jurisprudence. It should not be surprising to find that there are racial and ethnic frames by which the recognizably human is currently constituted. One critical operation of any democratic culture is to contest these frames, to allow a set of dissonant and overlapping frames to come into view, to take up the challenges of cultural translation, especially those that emerge when we find ourselves living in proximity with those whose beliefs and values challenge our own at very fundamental levels. More crucially, it is not that "we" have a common idea of what is human, for Americans are constituted by many traditions, including Islam in various forms, so any radically democratic self-understanding will have to come to terms with the heterogeneity of human values. This is not a relativism that undermines universal claims; it is the condition by which a concrete and expansive conception of the human will be articulated, the way in which parochial and implicitly racially and religiously bound conceptions of human will be made to yield to a wider conception of how we consider who we are as a global community. We do not yet understand all these ways, and in this sense human rights law has yet to understand the full meaning of the human. It is, we might say, an ongoing task of human rights to reconceive the human when it finds that its putative universality does not have universal reach. The question of who will be treated humanely presupposes that we have first settled the question of who does and does not count as a human. And this is where the debate about Western civilization and Islam is not merely or only an academic debate, a misbegotten pursuit of Orientalism by the likes of Bernard Lewis and Samuel Huntington who regularly produce monolithic accounts of the "East," contrasting the values of Islam with the values of Western "civilization." In this sense, "civilization" is a term that works against an expansive conception of the human, one that has no place in an internationalism that takes the universality of rights seriously. The term and the practice of "civilization" work to produce the human differentially by offering a culturally limited norm for what the human is supposed to be. It is not just that some humans are treated as humans, and others are dehumanized; it is rather that dehumanization becomes the condition for the production of the human to the extent that a "Western" civilization defines itself over and against a population understood as, by definition, illegitimate, if not dubiously human. A spurious notion of civilization provides the measure by which the human is defined at the same time that a field of would-be humans, the spectrally human, the deconstituted, are maintained and detained, made to live and die within that extra-human and extrajuridical sphere of life. It is not just the inhumane treatment of the Guantanamo prisoners that attests to this field of beings apprehended, politically, as unworthy of basic human entitlements. It is also found in some of the legal frameworks through which we might seek accountability for such inhuman treatment, such that the brutality is continued-revised and displaced-in, for instance, the extra-legal procedural antidote to the crime. We see the operation of a capricious proceduralism outside of law, and the production of the prison as a site for the intensification of managerial tactics untethered to law, and bearing no relation to trial, to punishment, or to the rights of prisoners. We see, in fact, an effort to produce a secondary judicial system and a sphere of non-legal detention that effectively produces the prison itself as an extra-legal sphere maintained by the extrajudicial power of the state. This new configuration of power requires a new theoretical framework or, at least, a revision of the models for thinking power that we already have at our disposal. The fact of extra-legal power is not new, but the mechanism by which it achieves its goals under present circumstances is singular. Indeed, it may be that this singularity consists in the way the "present circumstance" is transformed into a reality indefinitely extended into the future, controlling not only the lives of prisoners and the fate of constitutional and international law, but also the very ways in which the future may or may not be thought.