# Round 3—Neg vs John Carroll MS

## 1NC

### 1nc t

#### Indefinite detention means holding enemy combatants until the cessation of hostilities – authority for it is codified in the NDAA

**Greenwald, 11** –former Constitutional and civil rights litigator (Glenn, “Three myths about the detention bill” Salon, 12/16, <http://www.salon.com/2011/12/16/three_myths_about_the_detention_bill/>)

Condemnation of President Obama is intense, and growing, as a result of his announced intent to sign into law the indefinite detention bill embedded in the 2012 National Defense Authorization Act (NDAA). These denunciations come not only from the nation’s leading civil liberties and human rights groups, but also from the pro-Obama New York Times Editorial Page, which today has a scathing Editorial describing Obama’s stance as “a complete political cave-in, one that reinforces the impression of a fumbling presidency” and lamenting that “the bill has so many other objectionable aspects that we can’t go into them all,” as well as from vocal Obama supporters such as Andrew Sullivan, who wrote yesterday that this episode is “another sign that his campaign pledge to be vigilant about civil liberties in the war on terror was a lie.” In damage control mode, White-House-allied groups are now trying to ride to the rescue with attacks on the ACLU and dismissive belittling of the bill’s dangers.

For that reason, it is very worthwhile to briefly examine — and debunk — the three principal myths being spread by supporters of this bill, and to do so very simply: by citing the relevant provisions of the bill, as well as the relevant passages of the original 2001 Authorization to Use Military Force (AUMF), so that everyone can judge for themselves what this bill actually includes (this is all above and beyond the evidence I assembled in writing about this bill yesterday):

Myth # 1: This bill does not codify indefinite detention

Section 1021 of the NDAA governs, as its title says, “Authority of the Armed Forces to Detain Covered Persons Pursuant to the AUMF.” The first provision — section (a) — explicitly “affirms that the authority of the President” under the AUMF ”includes the authority for the Armed Forces of the United States to detain covered persons.” The next section, (b), defines “covered persons” — i.e., those who can be detained by the U.S. military — as “a person who was a part of or substantially supported al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners.” With regard to those “covered individuals,” this is the power vested in the President by the next section, (c):

It simply cannot be any clearer within the confines of the English language that this bill codifies the power of indefinite detention. It expressly empowers the President — with regard to anyone accused of the acts in section (b) – to detain them “without trial until the end of the hostilities.” That is the very definition of “indefinite detention,” and the statute could not be clearer that it vests this power. Anyone claiming this bill does not codify indefinite detention should be forced to explain how they can claim that in light of this crystal clear provision.

It is true, as I’ve pointed out repeatedly, that both the Bush and Obama administrations have argued that the 2001 AUMF implicitly (i.e., silently) already vests the power of indefinite detention in the President, and post-9/11 deferential courts have largely accepted that view (just as the Bush DOJ argued that the 2001 AUMF implicitly (i.e., silently) allowed them to eavesdrop on Americans without the warrants required by law). That’s why the NDAA can state that nothing is intended to expand the 2001 AUMF while achieving exactly that: because the Executive and judicial interpretation being given to the 20o1 AUMF is already so much broader than its language provides.

But this is the first time this power of indefinite detention is being expressly codified by statute (there’s not a word about detention powers in the 2001 AUMF). Indeed, as the ACLU and HRW both pointed out, it’s the first time such powers are being codified in a statute since the McCarthy era Internal Security Act of 1950, about which I wrote yesterday.

#### Vote neg—ending authority to torture doesn’t do anything about the executive’s ability to indefinitely detain—any aff interp blows up the goalposts to allow any aff that talks about detention—eviscerates a predictable lit base which is key to clash and debate

#### Independently detention takes three forms—criminal, preventative, and interrogative—they have to specify which one they target—failure to specify leads to bad advocacy skills and causes misperception that turns the aff

**Eppinger 13**—Assistant Professor, Saint Louis University School of Law and Department of Sociology and Anthropology

(Monica, “REALITY CHECK: DETENTION IN THE WAR ON TERROR”, 62 Cath. U.L. Rev. 325, Winter 2013, lexis, dml)

Our conceptual vocabulary has not kept pace with experience. Although legal experts, the press, and the public rely on one generic term, "detention," [\*328] the U.S. executive branch has actually practiced **at least three different modes of detention** in the "war on terror": criminal detention, national security detention for the purpose of prevention (preventive detention), and national security detention for the purpose of interrogation (interrogative detention). Reliance on an overgeneralized term **glosses over important distinctions with** serious practical effects. When the general term "detention" in current usage is taken to mean only "criminal detention," it reflects a misunderstanding of what national security experts are actually working on. Framing the issue so narrowly **leads to limited effectiveness** in persuasion or diagnosis, insofar as it fails to take into account some of the organizational and ethical features of the domain of national security or **results in** misrecognition **of some kinds of executive branch conduct**. Reconceiving detention based on observation of its actual practice should **yield clarity and specificity that will serve** future advocacy efforts.

### 1nc k

#### The aff is an anthropocentric project which sustains the human nonhuman hierarchy – this makes any protections meaningless

Deckha 10 – Associate professor of Law at the University of Victoria. (“The Subhuman as a Cultural Agent of Violence” *Journal for Critical Animal Studies* http://www.criticalanimalstudies.org/wp-content/uploads/2009/09/JCAS-Special-Issue-Women-of-Color-November-FINAL-20101.doc)

The first part of this paper has established the importance of the subhuman figure in several contemporary manifestations of violence: militarized and police camps, slavery and slavery-like practices, and the laws of war. If this role played by subhumanization is accurate, a pressing question presents itself: should we continue to rely on anti-violence discourses (i.e., human rights or other “human” justice campaigns) that entrench the subhuman category? In other words, human rights discourses do not instruct us to purge the subhuman category or the human/nonhuman divide from our critical repertoire. Instead, they seek to convince us that we should see all human beings as definitely human and not subhumanize them. This approach does not effectivly achieve its aims of protecting vulnerable human groups from violence because it leaves the subhuman category intact, a category that humanized humans can always assert should convictions sway about the relative moral worth of a particular human group**.** The subhuman category is then poised to “animalize” or dehumanize the targeted group and generate corresponding justifications as to why the human group does not deserve better than subhuman treatment. A better strategy would be to eliminate the subhuman category from the onset by impugning the human/nonhuman boundary itself and thus the claim to human superiority.

#### The role of your ballot is vote for the team producing the most liberatory scholarship –vote negative to endorse animal standpoint theory—this controls the root of oppression

**Best 7** [Steven Best, Chair of Philosophy at UT-EP, 2007 JCAS 5.2]

Commonalities of Oppression¶ “Compassion, in which all ethics must take root, can only attain its full breadth and depth¶ if it embraces all living creatures and does not limit itself to humankind.” Albert¶ Schweitzer¶ “The animals of the world exist for their own reasons. They were not made for humans¶ any more than black people were made for white, or women created for men.” Alice¶ Walker¶ The construction of industrial stockyards, the total objectification of nonhuman animals,¶ and the mechanized murder of innocent beings should have sounded a loud warning to¶ humanity that such a process might one day be applied to them, as it was in Nazi¶ Germany. If humans had not exploited animals, moreover, they might not have exploited¶ humans, or, at the very least, they would not have had handy conceptual models and¶ technologies for enforcing domination over others. “A better understanding of these¶ connections,” Patterson states, “should help make our planet a more humane and livable¶ place for all of us – people and animals alike, A new awareness is essential for the¶ survival of our endangered planet.”40 The most important objective of the book, indeed, is to promote a new ethics and¶ mode of perception. Eternal Treblinka affects a radical shift in the way we understand¶ oppression, domination, power, and hierarchy. It is both an effect of these changes, and,¶ hopefully, a catalyst to deepen political resistance to corporate domination and hierarchy¶ in all forms. Given its broad framing that highlights the crucial importance of human¶ domination over animals for slavery, racism, colonialism, and anti-Semitism, Eternal¶ Treblinka could and should revolutionize fields such as Holocaust studies, colonial and¶ postcolonial studies, and African American studies. But this can happen only if, to be¶ blunt, humanists, “radicals,” and “progressives” in academia and society in general¶ remove their speciesist blinders in order to grasp the enormity of animal suffering, its¶ monumental moral wrong in needless and unjustifiable exploitation of animals, and the¶ larger structural matrix in which human-over-human domination and human-over-animal¶ domination emerge from the same prejudiced, power-oriented, and pathological violent¶ mindset. Political resistance in western nations, above all, will advance a quantum leap¶ when enough people recognize that the movements for human liberation, animal¶ liberation, and earth liberation are so deeply interconnected that no one objective is¶ possible without the realization of the others.¶ A truly revolutionary social theory and movement seeks to emancipate members¶ of one species from oppression, but rather all species and the earth itself from the grip of¶ human domination and colonization. A future “revolutionary movement” worthy of the¶ name will grasp the ancient roots of hierarchy, such as took shape with the emergence of¶ agricultural societies, and incorporate a new ethics of nature that overcomes¶ instrumentalism and hierarchies of all forms.41 Humanism is a form of prejudice, bias,¶ bigotry, and destructive supremacism; it is a stale, antiquated, immature, and dysfunction¶ dogma; it is a form of fundamentalism, derived from the Church of “Reason” and, in¶ comparison with the vast living web of life still humming and interacting, however¶ tattered and damaged, it is, writ large, a tribal morality – in which killing a member of¶ your own “tribe” is wrong but any barbarity unleashed on another tribe is acceptable if¶ not laudable. Ultimately, humanism is pseudo-universalism, a Kantian quackery, a¶ hypocritical pretense to ethics, a dysfunctional human identity and cosmological map¶ helping to drive us ever-deeper into an evolutionary cul-de-sac.

#### Rather than produce the slaughterhouse of a so-called “radical” and more perfect humanity, vote negative to disrupt and revolutionize your humanist identity – every interaction and conversation is key – sole focus on animals comes before anything else

**Best No Date** [Steven, Chair of Philosophy at UT-EP, “Animal Rights and the New Enlightenment”, http://www.drstevebest.org/AnimalRightsandtheNewEnlightenment.htm]

The next logical step in human moral evolution is to embrace animal rights and accept its profound implications. Animal rights builds on the most progressive ethical and political advances human beings have made in the last two hundred years. Simply put, the argument for animal rights states that if humans have rights, animals have rights for the same reasons. Moral significance lies not in our differences as species but rather our commonalities as subjects of a life.¶ This is the challenge of animal rights: can human beings become truly enlightened and overcome one of the last remaining prejudices enshrined in democratic legal systems? Can they reorganize their economic systems, retool their technologies, and transform their cultural traditions? Above all, can they construct new sensibilities, values, worldviews, and identities?¶ The animal rights movement poses a fundamental evolutionary challenge to human beings in the midst of severe crises in the social and natural worlds. Can we recognize that the animal question is central to the human question? Can we grasp how the exploitation of animals is implicated in every aspect of the crisis in our relation to one another and the natural world?¶ Animal rights is an assault on human species identity. It smashes the compass of speciesism and calls into question the cosmological maps whereby humans define their place in the world. Animal rights demands that human beings give up their sense of superiority over other animals. It challenges people to realize that power demands responsibility, that might is not right, and that an enlarged neocortex is no excuse to rape and plunder the natural world.¶ These profound changes in worldview demand revolutionizing one’s daily life and recognizing just how personal the political is. I teach many radical philosophies, but only animal rights has the power to upset and transform daily rituals and social relations. “Radical” philosophies such as anarchism or Marxism uncritically reproduce speciesism. After the Marxist seminar, students can talk at the dinner table about revolution while dining on the bodies of murdered farmed animals. After the animal rights seminar, they often find themselves staring at their plates, questioning their most basic behaviors, and feeling alienated from their carping friends and family. The message rings true and stirs the soul.¶ Let’s be clear: we are fighting for a revolution, not for reforms, for the end of slavery, not for humane slavemasters. Animal rights advances the most radical idea to ever land on human ears: animals are not food, clothing, resources, or objects of entertainment.¶ Our goal is nothing less than to change entrenched attitudes, sedimented practices, and powerful institutions that profit from animal exploitation. Indeed, the state has demonized us as “eco-terrorists” and is criminalizing our fight for what is right.¶ Our task is especially difficult because we must transcend the comfortable boundaries of humanism and urge a qualitative leap in moral consideration. We are insisting that people not only change their views of one another within the species they share, but rather realize that species boundaries are as arbitrary as those of race and sex. Our task is to provoke humanity to move the moral bar from reason and language to sentience and subjectivity.¶ We must not only educate, we must become a social movement. The challenge of animal rights also is our challenge, for animal rights must not only be an idea but a social movement for the liberation of the world’s most oppressed beings, both in terms of numbers and in the severity of their pain. As with all revolutions, animals will not gain rights because oppressors suddenly see the light, but rather because enough people become enlightened and learn how rock the structures of power, to shake them until new social arrangements emerge.¶ Are we asking for too much? Justice requires only what is right, and is never excessive. Is the revolution remotely possible? In a thousand ways, the revolution is gaining ground. From the near nation-wide ban on cockfighting to making animal abuse a felony crime in 37 states, from eliminating the use of animals to train doctors in two thirds of U.S. medical schools to teaching animal rights and the law seminars at over two dozen universities, from increasing media coverage of animal welfare/rights issues to a 2003 Gallup Poll finding that 96% of Americans say that animals deserve some protection from abuse and 25% say that animals deserve “the exact same rights as people to be free from harm and exploitation” it is clear that human beings are beginning to change their views about other species.¶ Human beings simply will have to reinvent their identities and find ways to define humanity and culture apart from cruelty. Whether people realize it or not, this is not a burden but a liberation. One no longer has to live the lie of separation and the opening of the heart can bring a profound healing.

### 1nc k 2

#### The 1ac comes at the question of indefinite detention from the perspective of color-blindness, attempting to use the mechanisms white civil society to reign in extra-judicial violence that only tries to make sane an inherently racist system that authorizes that violence in the first place—only beginning from the perspective of oppressed makes possible the founding of a new political order

Sexton 10. Jared Sexton, Director, African American Studies School of Humanities at UC Irvine, “People-of-color-blindness,” Social Text 103 • Vol. 28, No. 2 • Summer 2010, pg. 47

If the oppression of nonblack people of color in, and perhaps beyond, the United States seems conditional to the historic instance and functions at a more restricted empirical scope, antiblackness seems invariant and limitless (which does not mean that the former is somehow negligible and short-lived or that the latter is exhaustive and unchanging). If pursued with some consistency, the sort of comparative analysis outlined above would likely impact the formulation of political strategy and modify the demeanor of our political culture. In fact, it might denature the comparative instinct altogether in favor of a relational analysis more adequate to the task. Yet all of this is obviated by the silencing mechanism par excellence in Left politi- cal and intellectual circles today: “Don’t play Oppression Olympics!” The Oppression Olympics dogma levels a charge amounting to little more than a leftist version of “playing the race card.” To fuss with details of compara- tive (or relational) analysis is to play into the hands of divide-and-conquer tactics and to promote a callous immorality.72 However, as in its conserva- tive complement, one notes in this catchphrase the unwarranted transla- tion of an inquiring position of comparison into an insidious posture of competition, the translation of ethical critique into unethical attack. This point allows us to understand better the intimate relationship between the censure of black inquiry and the recurrent analogizing to black suffering mentioned above: they bear a common refusal to admit to significant dif- ferences of structural position born of discrepant histories between blacks and their political allies, actual or potential. We might, finally, name this refusal people-of-color-blindness, a form of colorblindness inherent to the concept of “people of color” to the precise extent that it misunderstands the specificity of antiblackness and presumes or insists upon the mono- lithic character of victimization under white supremacy73 — thinking (the afterlife of) slavery as a form of exploitation or colonization or a species of racial oppression among others.74

The upshot of this predicament is that obscuring the structural position of the category of blackness will inevitably undermine multiracial coalition building as a politics of radical opposition and, to that extent, force the question of black liberation back to the center of discussion. Every analysis that attempts to understand the complexities of racial rule and the machinations of the racial state without accounting for black existence within its framework—which does not mean simply listing it among a chain of equivalents or returning to it as an afterthought—is doomed to miss what is essential about the situation. Black existence does not represent the total reality of the racial formation — it is not the beginning and the end of the story—but it does relate to the totality; it indicates the (repressed) truth of the political and economic system. That is to say, the whole range of positions within the racial formation is most fully understood from this vantage point, not unlike the way in which the range of gender and sexual variance under patriarchal and heteronormative regimes is most fully understood through lenses that are feminist and queer.75 What is lost for the study of black existence in the proposal for a decentered, “postblack” paradigm is a proper analysis of the true scale and nature of black suffer- ing and of the struggles — political, aesthetic, intellectual, and so on — that have sought to transform and undo it. What is lost for the study of nonblack nonwhite existence is a proper analysis of the true scale and nature of its material and symbolic power relative to the category of blackness.76

This is why every attempt to defend the rights and liberties of the latest victims of state repression will fail to make substantial gains inso- far as it forfeits or sidelines the fate of blacks, the prototypical targets of the panoply of police practices and the juridical infrastructure built up around them. Without blacks on board, the only viable political option and the only effective defense against the intensifying cross fire will involve greater alliance with an antiblack civil society and further capitulation to the magnification of state power. At the apex of the midcentury social movements, Kwame Ture and Charles Hamilton wrote in their 1968 clas- sic, Black Power: The Politics of Liberation, that black freedom entails “the necessarily total revamping of the society.”77 For Hartman, thinking of the entanglements of the African diaspora in this context, the necessarily total revamping of the society is more appropriately envisioned as the creation of an entirely new world:

I knew that no matter how far from home I traveled, I would never be able to leave my past behind. I would never be able to imagine being the kind of person who had not been made and marked by slavery. I was black and a history of terror had produced that identity. Terror was “captivity without the possibility of flight,” inescapable violence, precarious life. There was no going back to a time or place before slavery, and going beyond it no doubt would entail nothing less momentous than yet another revolution.7

#### Their reliance on legal modernity to regulate the existence of detention guarantees that their must be camps outside the law in which the executive can act with impunity—we need a new politics

Agamben 98. Giorgio Agamben, professor of philosophy at the University of Verona, *Homo Sacer: Sovereign Power and Bare Life,* pg. 174

7-7- In this light, the birth of the camp in our time appears as an event that decisively signals the political space of modernity itself. It is produced at the point at which the political system of the modern nation-state, which was founded on the functional nexus between a determinate localization (land) and a determinate order (the State) and mediated by automatic rules for the inscription of life (birth or the nation), enters into a lasting crisis, and the State decides to assume directly the care of the nation's biological life as one of its proper tasks. If the structure of the nation-state is, in other words, defined by the three elements land, order, birth, the rupture of the old nomos is produced not in the two aspects that constituted it according to Schmitt (localization, Ortung, and or­ der, Ordnung), but rather at the point marking the inscription of bare life (the birth that thus becomes nation) within the two of them. Something can no longer function within the traditional mechanisms that regulated this inscription, and the camp is the new, hidden regulator of the inscription of life in the order-or, rather, the sign of the system's inability to function without being transformed into a lethal machine. It is significant that the camps appear together with new laws on citizenship and the denational­ ization of citizens-not only the Nuremberg laws on citizenship in the Reich but also the laws on denationalization promulgated by almost all European states, including France, between 1915 and 1933. The state of exception, which was essentially a temporary suspension of the juridico-political order, now becomes a new and stable spatial arrangement inhabited by the bare life that more and more can no longer be inscribed in that order. The growing dissociation of birth (bare life) and the nation-state is the new fact of politics in our day, and what we call camp is this disjunction. To an order without localization (the state of exception, in which law is suspended) there now corresponds a localization without order (the camp as permanent space of exception). The political system no longer orders forms of life and juridical rules in a determinate space, but instead contains at its very center a dislocating localiza­ tion that exceeds it and into which every form of life and every rule can be virtually taken. The camp as dislocating localization is the hidden matrix of the politics in which we are still living, and it is this structure of the camp that we must learn to recognize in all its metamorphoses into the zones d'attentes of our airports and certain outskirts of our cities. The camp is the fourth, inseparable element that has now added itself to-and so broken-the old trinity composed of the state, the nation (birth) , and land.

From this perspective, the camps have, in a certain sense, reap­ peared in an even more extreme form in the territories of the former Yugoslavia. What is happening there is by no means, as interested observers have been quick to declare, a redefinition of the old political system according to new ethnic and territorial arrangements, which is to say, a simple repetition ofprocesses that led to the constitution of the European nation-states. At issue in the former Yugoslavia is, rather, an incurable rupture of the old nomos and a dislocation of populations and human lives along entirely new lines of flight. Hence the decisive importance of ethnic rape camps. If the Nazis never thought of effecting the Final Solution by making Jewish women pregnant, it is because the principle ofbirth that assured the inscription oflife in the order of the nation-state was still-if in a profoundly transformed sense­ in operation. This principle has now entered into a process of decay and dislocation. It is becoming increasingly impossible for it to function, and we must expect not only new camps but also always new and more lunatic regulative definitions of the inscrip­ tion of life in the city. The camp, which is now securely lodged within the city's interior, is the new biopolitical nomos of the planet.

#### Their aff scape goats the decision on indefinite detention to legal bureaucrats who will make racist decisions about who will be indefinitely detained RATHER than applying the plan’s case law equally

Tagma 09. Halit Mustafa Tagma, Professor of Political Science and International Relations, Sabanci University, Alternatives: Global, Local, Political, Vol. 34, No. 4 (Oct.-Dec. 2009), pg. 422

Besides the manual Standard Operating Procedures that dictates the minute-to-minute details on disciplining prisoners and Human Ter- rain Systems to classify and discipline populations, there is also a mushrooming psychiatric discipline that has the prisoners as its ob- ject. Allison Howell argues that the psychiatric discourse, as a regime of truth, has pathologized the Guantánamo prisoners such that it "play[ed] a part in the conditions of possibility for indefinite deten- tion**.**"89 Howell shows how the scientific discourse on the mental health of the prisoners has constructed them as "crazy, fanatical mad- men" who are dangerous to themselves and society.90 She argues that this regime of truth has legitimated the indefinite detention of the prisoners. This supports my central argument that the "regime of truth" of biopower supplements sovereign power. This means that tactics of power create the conditions of possibility for the justifica- tion of exceptional sovereign practices. In other words, techniques of power that attempt to individualize, divide, and discipline bodies feed back into and justify the conditions of possibility for the exceptional logic in the articulation of emergency powers - a logic of supplemen- tarity par excellence. All this is not to say that there is a simple chronol- ogy to this logic, and that such affairs occur in abstraction, external to chance, contingency, historicity, interpretation, and the regime of truth of a given society. Instead, the techniques of power go hand in hand with the regime of truth in a given space and time. Exclusion- ary practices and the production of bare life do not operate, as Agam- ben would have us believe, in a uniform and universal manner that gets replicated across time and space, be it in the Greek city-state Nazi Germany. Agamben declares that thanks to sovereign power Ve are all Homo Sacer" Historically and theoretically, however, the articu- lation of the Ve" is at the core of the problem. The prisoners of the war on terror are also subject to standards of classification, categorization, and profiling. In the case of John Phillip Walker Lindh, the son of a white suburban US family, who was captured in the opening of the war in Afghanistan, "justice" was meted out swiftly, and he was given a twenty-year sentence. On the other hand, Jose Padilla, "an American citizen of color," and in the case of thousands of other subjects put on indefinite detention, normal law is put on hold.91 What accounts for this difference are the marks of difference on a subject's body (race, religion, national back- ground, and ideology) that all come in to play at the ground level when petty bureaucrats get to decide who is to be treated according to what standard of operation. The workings of racism can be identi- fied in the speeches of petty bureaucrats at the local level, as in this statement from one of the Tipton Three: I recall that one of them said "you killed my family in the towers and now it's time to get you back." They kept calling us mother fuckers and I think over the three or four hours that I was sitting there, I must have been punched, kicked, slapped or struck with a rifle butt at least 30 or 40 times. It came to a point that I was simply too numb from the cold and from exhaustion to respond to the pain.92 Although the Three were British citizens and had nothing to do with the 9/11 terrorist attacks, they were quickly associated with ter- rorism because of their racial background and apprehension in Af- ghanistan. Despite the fact that they had nothing to do with terrorism, as their release from Guantánamo Bay suggests, their treatment stands as an indication not of senseless sovereign vengeance but of a vengeance informed by a certain racist bias. Their capture, torture, and treatment was all made possible by a prior initial racial profiling that resulted in innocent men being held in captivity. Sovereign vio- lence does not operate in the absence of a regime of truth that iden- tifies those whose bodies could be subjected to violence. As developed in particular, there was an unmistakable racist disposition toward the "different" bodies of the prisoners. As Reid-Henry points out, the flesh of the Oriental, both as an exotic and an inferior sub- ject, probably had something to do with the stripping and beating of Middle Eastern prisoners.93 It may be argued that the decision not to apply the Geneva Convention and other standards of legal treatment to the prisoners captured in Afghanistan is representative of an exceptional decision. However, in line with what I have been arguing, such a resolution is not a simple act of deciding on the part of the leading politicomili- tary cadres of a state. This is not to deny the importance of subjects in key positions; however, such decisions do not take place in a space external to interpretation, culture, and history. Furthermore, much of the sovereign decisions, such as "who is to be detained indefi- nitely," are made at the local level based on interpretation of petty bureaucrats. Sovereign decisions are always already informed by historical and cultural understandings as to who counts as a member of the "good species**."** The "good species," "the inside," and the body politic have been constructed by colonial discourse. As Roxanne Doty has pointed out, colonial discourse has had a vital role in the construction of Western nations. She further points out that race, religion, and other marks of difference have played an important role in national classi- fication.94 The treatment of faraway people as inferior and exotic has played an important role in nation building in its classic sense. There- fore, who counts as a citizen, a "legitimate" member of a "legitimate" nation, is the product and effect of centuries of interaction of the West with its others. Understood in this sense, sovereign decisions (whether made at the top or bottom level) are informed and shaped by a cultural and colonial history. This is neglected in Agamben's grand analysis of Western politics. Therefore, sovereign power needs the classification, hierarchization, and othering provided by a regime of truth in order to conduct its violent power. Only certain types of peo- ple could be rendered as bare life and thrown into a zone of indis- tinction. Understood this way, it is easier to comprehend the "smooth" production of homines sacri out of Middle Eastern subjects.

#### Reject the 1ac’s reformist approach to the prison in favor of imagining the world in which the prison is not an inevitable social coordinate

**Rodriguez 10**—Professor and Chair of the Department of Ethnic Studies at UC Riverside

(Dylan, “The Disorientation of the Teaching Act: Abolition as Pedagogical Position”, Radical Teacher 88 (Summer 2010): 7-19,80, dml)

I have had little trouble "convincing" most students - across distinctions of race, class, gender, age, sexuality, and geography - of the gravity and emergency of our historical moment. It is the analytical, political, and practical move toward an abolitionist positionality that is (perhaps predictably) far more challenging. This is in part due to the fraudulent and stubborn default position of centrist-to-progressive liberalism/reformism (including assertions of "civil" and "human" rights) as the only feasible or legible response to reactionary, violent, racist forms of state power. Perhaps more troublesome, however, is that this resistance to engaging with abolitionist praxis seems to also derive from a deep and broad epistemological and cultural disciplining of the political imagination that makes liberationist dreams unspeakable. This disciplining is most overtly produced through hegemonic state and cultural apparatuses and their representatives (including elected officials, popular political pundits and public intellectuals, schools, family units, religious institutions, etc.), but is also compounded through the pragmatic imperatives of many liberal and progressive nonprofit organizations and social movements that reproduce the political limitations of the nonprofit industrial complex.22 In this context, the liberationist historical identifications hailed by an abolitionist social imagination also require that such repression of political-intellectual imagination be fought, demystified, and displaced.

Perhaps, then, there is no viable or defensible pedagogical position other than an abolitionist one. To live and work, learn and teach, and survive and thrive in a time defined by the capacity and political willingness to eliminate and neutralize populations through a culturally valorized, state sanctioned nexus of institutional violence, is to better understand why abolitionist praxis in this historical moment is primarily pedagogical, within and against the "system" in which it occurs. While it is conceivable that in future moments, abolitionist praxis can focus more centrally on matters of (creating and not simply opposing) public policy, infrastructure building, and economic reorganization, the present moment clearly demands a convening of radical pedagogical energies that can build the collective human power, epistemic and knowledge apparatuses, and material sites of learning that are the precondition of authentic and liberatory social transformations**.**

The prison regime is the institutionalization and systemic expansion of massive human misery. It is the production of bodily and psychic disarticulation on multiple scales, across different physiological capacities. The prison industrial complex is, in its logic of organization and its production of common sense, at least proto-genocidal. Finally, the prison regime is inseparable from - that is, present in - the schooling regime in which teachers are entangled. Prison is not simply a place to which one is displaced and where one's physiological being is disarticulated, at the rule and whim of the state and its designated representatives (police, parole officers, school teachers). The prison regime is the assumptive premise of classroom teaching generally. While many of us must live in labored denial of this fact in order to teach as we must about "American democracy," "freedom," and "(civil) rights," there are opportune moments in which it is useful to come clean: the vast majority of what occurs in U.S. classrooms - from preschool to graduate school - cannot accommodate the bare truth of the proto-genocidal prison regime as a violent ordering of the world, a primary component of civil society/school, and a material presence in our everyday teaching acts.

As teachers, we are institutionally hailed to the service of genocide management, in which our pedagogical labor is variously engaged in mitigating, valorizing, critiquing, redeeming, justifying, lamenting, and otherwise reproducing or tolerating the profound and systemic violence of the global-historical U.S. nation building project. As "radical" teachers, we are politically hailed to betray genocide management in order to embrace the urgent challenge of genocide abolition. The short-term survival of those populations rendered most immediately vulnerable to the mundane and spectacular violence of this system, and the long-term survival of most of the planet's human population (particularly those descended from survivors of enslavement, colonization, conquest, and economic exploitation), is significantly dependent on our willingness to embrace this form of pedagogical audacity.

#### The only ethical position is to refuse the sovereign fiction of lines between inside and outside

Edkins and Pin-Fat 05. Jenny Edkins, professor of international politics at Prifysgol Aberystwyth University (in Wales) and Veronique Pin-Fat, senior lecturer in politics at Manchester Universit, “Through the Wire: Relations of Power and Relations of Violence,” Millennium - Journal of International Studies 2005 34: pg. 14

One potential form of challenge to sovereign power consists of a refusal to draw any lines between zoe- and bios, inside and outside**.**59 As we have shown, sovereign power does not involve a power relation in Foucauldian terms. It is more appropriately considered to have become a form of governance or technique of administration through relationships of violence that reduce political subjects to mere bare or naked life. In asking for a refusal to draw lines as a possibility of challenge, then, we are not asking for the elimination of power relations and consequently, we are not asking for the erasure of the possibility of a mode of political being that is empowered and empowering, is free and that speaks: quite the opposite. Following Agamben, we are suggesting that it is only through a refusal to draw any lines at all between forms of life (and indeed, nothing less will do) that sovereign power as a form of violence can be contested and a properly political power relation (a life of power as potenza) reinstated. We could call this challenging the logic of sovereign power through refusal. Our argument is that we can evade sovereign power and reinstate a form of power relation by contesting sovereign power’s assumption of the right to draw lines, that is, by contesting the sovereign ban. Any other challenge always inevitably remains within this relationship of violence. To move outside it (and return to a power relation) we need not only to contest its right to draw lines in particular places, but also to resist the call to draw any lines of the sort sovereign power demands.

The grammar of sovereign power cannot be resisted by challenging or fighting over where the lines are drawn. Whilst, of course, this is a strategy that can be deployed, it is not a challenge to sovereign power per se as it still tacitly or even explicitly accepts that lines must be drawn somewhere (and preferably more inclusively). Although such strategies contest the violence of sovereign power’s drawing of a particular line, they risk replicating such violence in demanding the line be drawn differently**.** This is because such forms of challenge fail to refuse sovereign power’s line-drawing ‘ethos’, an ethos which, as Agamben points out, renders us all now homines sacri or bare life.

#### Refuse attempts to reform the system and doom it to its own nihilistic destruction—we must refuse all conceptual apparatuses of capture—that intellectuals subtraction is crucial

Prozorov 10. Sergei Prozorov, professor of political and economic studies at the University of Helsinki, “Why Giorgio Agamben is an optimist,” Philosophy Social Criticism 2010 36: pg. 1065

In a later work, Agamben generalizes this logic and transforms it into a basic ethical imperative of his work: ‘[There] is often nothing reprehensible about the individual behavior in itself, and it can, indeed, express a liberatory intent. What is disgraceful – both politically and morally – are the apparatuses which have diverted it from their possible use. We must always wrest from the apparatuses – from all apparatuses – the possibility of use that they have captured.’32 As we shall discuss in the following section, this is to be achieved by a subtraction of ourselves from these apparatuses, which leaves them in a jammed, inoperative state. What is crucial at this point is that the apparatuses of nihilism themselves prepare their demise by emptying out all positive content of the forms-of-life they govern and increasingly running on ‘empty’, capable only of (inflict- ing) Death or (doing) Nothing.

On the other hand, this degradation of the apparatuses illuminates the ‘inoperosity’ (worklessness) of the human condition, whose originary status Agamben has affirmed from his earliest works onwards.33 By rendering void all historical forms-of-life, nihi- lism brings to light the absence of work that characterizes human existence, which, as irreducibly potential, logically presupposes the lack of any destiny, vocation, or task that it must be subjected to: ‘Politics is that which corresponds to the essential inoperability of humankind, to the radical being-without-work of human communities. There is pol- itics because human beings are argos-beings that cannot be defined by any proper oper- ation, that is, beings of pure potentiality that no identity or vocation can possibly exhaust.’34

Having been concealed for centuries by religion or ideology, this originary inoperos- ity is fully unveiled in the contemporary crisis, in which it is manifest in the inoperative character of the biopolitical apparatuses themselves, which succeed only in capturing the sheer existence of their subjects without being capable of transforming it into a positive form-of-life:

[T]oday, it is clear for anyone who is not in absolutely bad faith that there are no longer historical tasks that can be taken on by, or even simply assigned to, men. It was evident start- ing with the end of the First World War that the European nation-states were no longer capa- ble of taking on historical tasks and that peoples themselves were bound to disappear.35

Agamben’s metaphor for this condition is bankruptcy: ‘One of the few things that can be

declared with certainty is that all the peoples of Europe (and, perhaps, all the peoples of the Earth) have gone bankrupt’.36 Thus, the destructive nihilistic drive of the biopolitical machine and the capitalist spectacle has itself done all the work of emptying out positive forms-of-life, identities and vocations, leaving humanity in the state of destitution that Agamben famously terms ‘bare life’. Yet, this bare life, whose essence is entirely con- tained in its existence, is precisely what conditions the emergence of the subject of the coming politics: ‘this biopolitical body that is bare life must itself be transformed into the site for the constitution and installation of a form-of-life that is wholly exhausted in bare life and a bios that is only its own zoe.’37

The ‘happy’ form-of-life, a ‘life that cannot be segregated from its form’, is nothing but bare life that has reappropriated itself as its own form and for this reason is no longer separated between the (degraded) bios of the apparatuses and the (endangered) zoe that functions as their foundation.38 Thus, what the nihilistic self-destruction of the appara- tuses of biopolitics leaves as its residue turns out to be the entire content of a new form-of-life. Bare life, which is, as we recall, ‘nothing reprehensible’ aside from its con- finement within the apparatuses, is reappropriated as a ‘whatever singularity’, a being that is only its manner of being, its own ‘thus’.39 It is the dwelling of humanity in this irreducibly potential ‘whatever being’ that makes possible the emergence of a generic non-exclusive community without presuppositions, in which Agamben finds the possi- bility of a happy life.

[If] instead of continuing to search for a proper identity in the already improper and sense- less form of individuality, humans were to succeed in belonging to this impropriety as such, in making of the proper being-thus not an identity and individual property but a singularity without identity, a common and absolutely exposed singularity, then they would for the first time enter into a community without presuppositions and without subjects.40

Thus, rather than seek to reform the apparatuses, we should simply leave them to their self-destruction and only try to reclaim the bare life that they feed on. This is to be achieved by the practice of subtraction that we address in the following section.

### 2

#### Referencing a nebulous neoliberalism sets the debate in narrow terms that create the problems that it attempts to solve – their very conceptualization of neoliberalism turns itself and makes the impact inevitable – refuse their simplistic view the world

**Barnett 2k9** (Clive, prof social sciences @ the open U “PUBLICS AND MARKETS What’s wrong with Neoliberalism?” <http://www.open.ac.uk/socialsciences/emergentpublics/publications/barnett_publicsandmarkets.pdf>

This chapter has suggested various conceptual limitations of theories of neoliberalism and neoliberalization. These theories are characterised by static idealizations of the contradictions between ‘the state’ and ‘the market’ which actually reiterate the simplistic views they ascribe to neoliberal purists. They tend to suppose that changes in state activities are the outcome of ‘ideational projects’, a view sustained by invoking expressive concepts of ideology, culturalist conceptions of hegemony, and instrumental conceptions of discourse. They tend in turn to project a distinctive geographical imaginary of cascading scales and spaces of diffusion, enabling highly abstract deductions about capital accumulation to be articulated with more concrete notions of the state, gender relations, racial formations, and other ‘contextual’ factors. And it is assumed that social formations are reproduced functionally through various mechanisms of naturalization, whether ideological or, in the Foucauldian inflection, through processes of subjectification. Theories of neoliberalism render ‘the social’ a residual aspect of more fundamental processes in three ways. Firstly, social practices are reduced to residual, more-or-less resistant effects of restructuring processes shaped by the transparent class interests of capital. This means that social relations of gender, ethnicity, or race, for example, are considered as contextual factors shaping the geographically variable manifestations of general neoliberalizing tendencies. Secondly, ‘the social’ is also reduced to a residual effect by being considered only in so far as it is the object of state administration in the interests of economic efficiency, or to strategies of ‘governmental rationality’. Thirdly, and related to this, ‘the social’ is construed as the more-or-less manipulable surface for ideological normalization or discursive subjectification. This final section throws into relief the normative limitations of theories of neoliberalism. If neoliberalism is a critics’ term, what are the terms of criticism invoked by these theories: what is wrong with neoliberalism? The concept of neoliberalization implies that neoliberalism is both parasitic on and corrosive of other social processes, but as already suggested, the source of this doubly destructive energy is never quite specified in these theories. The immediate objects of criticism are a range of substantive and observable social harms: rising levels of socio-economic inequality, authoritarianism, corrupt government, the concentration of wealth. But these immediate objects of criticism are seen as inevitable outcomes of a system which has encouraged the disembedding of economic relations from broader structures of normative steering. It is the imputed content of neoliberalism as a narrowly individualistic, egoistic rationality that is the source of the status ascribed to it as a ‘strong discourse’, at once parasitic and corrosive. It is on these grounds that it neoliberalism is viewed as nothing short of “a programme of the methodical destruction of collectives” (Bourdieu 1998). The view that neoliberalism unleashes pathological human tendencies otherwise properly held in check by collective conventions is a distinctive updating of Polanyi’s view of market capitalism as an unnatural formation. What is at work here is a theoretical imaginary in which the extension of accumulation by market exchange is understood to necessarily undermine forms of social integration previously knitted together through the state. Theories of neoliberalism display an intense ambivalence towards ‘the state’. On the one hand, they follow a classical Marxist view in which the state is a territorial sovereign systematically involved in the reproduction of capital accumulation. On the other, they hark back almost nostalgically to a social democratic view in which the state stands opposed to the market as a counterweight, representing an opposing principle of social integration and political legitimacy. In accepting the same simplistic opposition between individual freedom and social justice presented by Hayek, but simply reversing the evaluation of the two terms, critics of neoliberalism end up presenting highly moralistic forms of analysis of contemporary political processes. In resisting the idealization of the market as the embodiment of public virtue, they end up embracing an equally idealized view of the forum as the alternative figure of collective life (see Elster 1986). For example, while Harvey insists that neoliberalism is a process driven by the aim of restoring class power, he ends his analysis by arguing that it is the anti-democratic character ofneoliberalism that should be the focal point of opposition (Harvey 2005, 205-206). But it is far from clear whether the theories of neoliberalism and neoliberalization developed by political economists, sometimes with the help of governmentality studies, can contribute to reconstructing a theory and practice of radical democratic justice. In Harvey’s analysis, the withdrawal of the state is taken for granted, and leads to the destruction of previous solidarities, unleashing pathologies of anomie, anti-social behaviour and criminality (ibid, 81). In turn, the vacuum created by the withdrawal of the state leads to social solidarities being reconstructed around other axes, of religion and morality, associationism, and nationalism. What has been described as the rise of the “movement society”, expressed in the proliferation of contentious politics of rights-based struggles and identity politics, Harvey sees as one aspect of a spread of corrosive social forms triggered by the rolling-back of states. In the wake of this rolling-back “[e]verything from gangs and criminal cartels, narco-trafficking networks, mini-mafias and favela bosses, through community, grassroots and non-governmental organizations, to secular cults and religious sects proliferate” (ibid, 171). These are alternative social forms “that fill the void left behind as state powers, political parties, and other institutional forms are actively dismantled or simply wither away as centres of collective endeavour and of social bonding” (ibid.). Harvey suggests his own bundle of rights as an alternative to the neoliberal regime of rights. These include ‘the right to life chances’, ‘control over production by the direct producers’, ‘to a decent and healthy living environment’, and ‘to collective control of common property resources’ (ibid. 204). He provides little sense of how the inevitable tensions and trade-offs between these sorts of rights would be negotiated and decided in practice (beyond the reiteration of Marx’s comment that ‘Between equal rights, force decides’ as if this were both a matter of fact and of principle). Harvey’s preference for ‘substantive’ democracy and social justice is associated with a persistent denigration of procedural issues without which any meaningful practice of democracy is unimaginable. Harvey casts struggles for cultural, civil, sexual or reproductive rights since the 1960s as inevitably complicit with the ‘neoliberal frame’ favouring ‘individual freedoms’ over ‘social justice’ (ibid., 41-43). Likewise the emergence of international human rights movements and the development of non-governmental politics is damned as complicit with the ‘neoliberal frame’ of individual rights and privatization (ibid. 176-177). This is a travesty of complex political movements that have pioneered struggles for social justice along diverse fronts, not least when Harvey claims that these movements have not focussed on developing “substantive and open democratic governance structures” (ibid., 176). What’s really wrong with neoliberalism, for critics who have constructed it as a coherent object of analysis, is the unleashing of destructive pathologies through the combined withdrawal of the state and the unfettered growth of market exchange. ‘Individual freedom’ is presented as a medium of uninhibited hedonism, which if given too much free reign undermines the ascetic virtues of self-denial upon which struggles for ‘social justice’ are supposed to depend. Underwritten by simplistic moral denunciations of ‘the market’, these theories cover over a series of analytic, explanatory, and normative questions. In the case of both the Marxist narrative of neoliberalization, and the Foucauldian analysis of neoliberal governmentality, it remains unclear whether either tradition can provide adequate resources for thinking about the practical problems of democracy, rights and social justice. This is not helped by the systematic denigration in both lines of thought of ‘liberalism’, a catch-all term used with little discrimination. There is a tendency to present neoliberalism as the natural end-point or rolling-out of a longer tradition of liberal thought – an argument only sustainable through the implicit invocation of some notion of a liberal ‘episteme’ covering all varieties and providing a core of meaning. One of the lessons drawn by diverse strands of radical political theory from the experience of twentieth-century history is that struggles for social justice can create new forms of domination and inequality. It is this that leads to a grudging appreciation of liberalism as a potential source for insight into the politics of pluralistic associational life. The cost of the careless disregard for ‘actually existing liberalisms’ is to remain blind to the diverse strands of egalitarian thought about the relationships between democracy, rights and social justice that one finds in, for example: post-Rawslian political philosophy; post-Habermasian theories of democracy, including their feminist variants; various postcolonial liberalisms; the flowering of agonistic liberalisms and theories of radical democracy; and the revival of republican theories of democracy, freedom, and justice. No doubt theorists of neoliberalism would see all this as hopelessly trapped within the ‘neoliberal frame’ of individualism, although if one takes this argument to its logical conclusion, even Marx’s critique of capitalist exploitation, dependent as it is on an ideal of self-ownership, is nothing more than a variation on Lockean individual rights. Any serious consideration of democracy, rights and social justice cannot afford to ignore the fields of social science in which issues of rationality, motivation, and agency are most fully theorized. These often turn out to be fields normally considered too ‘liberal’ for the tastes of critical human geographers (cf. Sayer 1995). These fields can serve as potential sources for revised understandings of the tasks of critical theory, ones which do not fall back into ahistorical, overly sociologized criticisms of any appearance of individualism or self-interest as menacing the very grounds of public virtue and the common good. Problems of coordination, institutional design, and justification are central to any normatively persuasive and empirically grounded critical theory of democracy. For example, the problem central to social choice theory – the difficulty of arriving at collective preference functions by aggregating individual preferences – is a fundamental issue in democratic theory, around which contemporary theories of deliberative democracy are increasingly focussed (Goodin 2003). Likewise, Amartya Sen’s (2002) critique of public choice theory’s assumption that people are ‘rational fools’ provides the most compelling criticism of the one-dimensional understanding of rationality, motivation, and agency upon which orthodox economic and public policy depends. This critique informs the “capabilities approach” which connects key problems in welfare economics to a theory of egalitarian rights and political democracy (Sen 1999; Corbridge 2002). These are just two examples of work which takes seriously the problematization of agency, motivation and rationality in ‘rational choice’ social science in order to move social theory beyond the consoling idea that rampant individualism can be tamed by moral injunctions of the public good and weak claims about social construction. The ascendancy of ‘neoliberalism’ as a theoretical object of approbation is symptomatic of the negative interpretation of ‘critical’ in contemporary critical human geography. Being critical, on this view, requires that one has a clear-sighted view of an object that one is critical of. Theories of neoliberalism provide a compelling picture of such an object, by providing an account of the displacement of socially embedded practices of reciprocity and redistribution by the pathological rationalities of market exchange. This style of theorizing leads to a mode of critical analysis in which change is always interpreted in zero-sum terms, as the encroachment of neoliberal rationalities into realms of social solidarity. It is a style of analysis that makes it impossible to acknowledge diverse dynamics of change, and in turn remains blind to emergent public rationalities: “If you believe in the implacable domination of economic forces, you cannot believe in the possibility of social movements; at the very best, you will see the movement of society as an expression of the systems’ internal contradictions, or as a manifestation of objective suffering and poverty” (Touraine 2001, 3). Neoliberalism as an object of analysis is certainly a critics’ term. The explicit formulation of neoliberalism into an object of theoretical analysis in critical human geography has been associated with the turning-in of intellectual curiosity around a very narrow space, bounded by Marxist political-economy on the one side and poststructuralist political ontologies on the other. As long as this remains the horizon of normative reflection, critical human geographers will continue to always know in advance what they are expected to be critical of but will remain unable to articulate convincingly what they are being critical for.

### 3

#### Restrained drone policy being implemented now – solves the worst parts of drone over-reliance

**Bellinger, 13** – John B., Adjunct Senior Fellow for International and National Security Law at CFR (“Obama's Mixed Counterterror Message,” 5/28/13, CFR, http://www.cfr.org/counterterrorism/obamas-mixed-counterterror-message/p30786 //Red)

The part of the speech that broke the most new ground was the announcement that President Obama had signed new Presidential Policy Guidance for use of force against terrorists. The guidance is classified but has been shared with Congress. In conjunction with the speech, the White House released a Fact Sheet that provides more detail on targeting standards. And the day before the speech, Attorney General Eric Holder sent a letter to Congress acknowledging the killing of Anwar al-Awlaki and three other Americans and specifying new legal standards for targeted killings. Together, these documents reflect laudable efforts by administration national security lawyers and counterterrorism officials to **achieve more transparency and clearer standards** for the use of drones, although these efforts have been overshadowed by the more political statements of the speech. **Substantively, the new standards appear to set a higher bar for the use of drones**, especially "outside areas of active hostilities." For example, the same standard would be applied for strikes against Americans and non-Americans, i.e., that the individual must pose a "continuing and imminent threat" of violence to U.S. persons. And the threat must be to U.S. persons, not U.S. allies or other U.S. interests. Moreover, **drone strikes will not be used where it would be feasible to capture the target**, and there must be a near certainty that a drone strike must not cause death or injury to non-civilians. Together, these public and stricter standards should address some of the concerns of both domestic and international critics of drone strikes. Indeed, some Republican members of Congress have criticized the Obama administration for placing too many restrictions on drone strikes. The standards will also help to close the Pandora's Box the Obama administration has opened by its heavy reliance on drones; the new standards **set a high bar** for other countries to meet if they want to cite U.S. standards as a precedent.

**Reduced detention powers causes a shift to increased drone use**

**Waxman, 11** – Matthew C., Adjunct Senior Fellow for Law and Foreign Policy at CFR (“9/11 Lessons: Terrorist Detention Policy,” CFR, 8/26/11, http://www.cfr.org/911-impact/911-lessons-terrorist-detention-policy/p25665 //Red)

The best approach lies between those views, and despite many differences in implementation and rhetoric, both the Obama administration--and the Bush administration preceding it--have headed haltingly in that direction. Criminal prosecution of terrorism suspects is often appropriate and neither signals weakness to nor legitimates terrorists, as some critics charge. But limited use of detention powers **beyond** those of **criminal law**, **and including detention based on the law of war, is also legally and strategically appropriate** for some leaders or operatives fighting for al-Qaeda abroad, especially when Congress provides a strong legislative basis and detentions are regulated with robust procedural protections and opportunities to rebut the government's allegations. An important lesson since the 9/11 attacks is that detention decisions and practices have legal, political, diplomatic, operational, and other **ripple effects across many aspects of counterterrorism policy**, and across U.S. foreign policy more broadly. Those concerned that the United States is too aggressive in its detention policy should beware that **constraining this tool adds pressure to rely on other tools**, **including lethal drone strikes** or proxy detention by other governments. Those concerned that the United States is not aggressive enough should beware that dogged resistance to criminal prosecution and failure to seriously address opponents' domestic and international legal concerns threatens the long-term stability of terrorist detention programs. It also undermines critically important counterterrorism partnerships with allies abroad, with whom legal disagreements can inhibit exchanges of information, prisoner transfers, and other cooperation.

#### Plan leads to increased reliance on drone strikes – that sets a global precedent

**Roberts, 13** – Dan, the Guardian's Washington Bureau chief, covering politics and US national affairs (“US Drone Strikes Being Used As Alternative to Guantánamo, Lawyer Says,” The Guardian, 5/2/13, http://www.informationclearinghouse.info/article34800.htm //Red)

The lawyer who first drew up White House policy on lethal drone strikes has accused the Obama administration of overusing them because of its **reluctance to capture prisoners that would otherwise have to be sent to Guantánamo** Bay. John Bellinger, who was responsible for drafting the legal framework for targeted drone killings while working for George W Bush after 9/11, said he believed their use had increased since because President Obama was unwilling to deal with the consequences of jailing suspected al-Qaida members. "This government has decided **that instead of detaining members** of al-Qaida [at Guantánamo] **they are going to kill them**," he told a conference at the Bipartisan Policy Center. Obama this week pledged to renew efforts to shut down the jail but has previously struggled to overcome congressional opposition, in part due to US disagreements over how to handle suspected terrorists and insurgents captured abroad. An estimated 4,700 people have now been killed by some 300 US drone attacks in four countries, and the question of the programme's status under international and domestic law remains highly controversial. Bellinger, a former legal adviser to the State Department and the National Security Council, insisted that the current administration was justified under international law in pursuing its targeted killing strategy in countries such as Pakistan and Yemen because the US remained at war. "We are about the only country in the world that thinks we are in a conflict with al-Qaida, but countries under attack are the ones that get to decide whether they are at war or not," he said. "**These drone strikes are causing us great damage in the world**, but on the other hand if you are the president and you do nothing to stop another 9/11 then you also have a problem." Nevertheless, the legal justification for drone strikes has become so stretched that critics fear it could now encourage other countries to claim they were acting within international law if they deployed similar technology. A senior lawyer now advising Barack Obama on the use of drone strikes conceded that the administration's definition of legality could even apply in the hypothetical case of an al-Qaida drone attack against military targets on US soil. Philip Zelikow, a member of the White House Intelligence Advisory Board, said the government was relying on two arguments to justify its drone policy under international law: that the US remained in a state of war with al-Qaida and its affiliates, or that those individuals targeted in countries such as Pakistan were planning imminent attacks against US interests. When asked by the Guardian whether such arguments would apply in reverse in the unlikely event that al-Qaida deployed drone technology against military targets in the US, Zelikow accepted they would. "Yes. But it would be an act of war, and they would suffer the consequences," he said during the debate at the Bipartisan Policy Center in Washington. Hina Shamsi, a director at the American Civil Liberties Union, warned that the issue of legal reciprocity was not just a hypothetical concern: "The use of this technology is spreading and we have to think about what we would say if other countries used drones for targeted killing programmes." "Few thing are more likely to undermine our legitimacy than the perception that we are not abiding by the rule of law or are indifferent to civilian casualties," she added. Zelikow, a former diplomat who also works as a professor of history at the University of Virginia, said he believed the US was in a stronger position when it focused on using drones only against those directly in the process of planning or carrying out attacks.

**Causes global conflict escalation**

**Cronin, 13** – Audrey Kurth, Professor of Public Policy at George Mason University (“Why Drones Fail,” Foreign Affairs, July/August 2013, http://www.foreignaffairs.com/articles/139454/audrey-kurth-cronin/why-drones-fail?page=show //Red)

Finally, the drone campaign presents a fundamental challenge to U.S. national security law, as evidenced by the controversial killing of four American citizens in attacks in Yemen and Pakistan. The president’s authority to protect the United States does not supersede an individual’s constitutional protections. All American citizens have a right to due process, and it is particularly worrisome that a secret review of evidence by the U.S. Department of Justice has been deemed adequate to the purpose. The president has gotten personally involved in putting together kill lists that can include Americans -- a situation that is not only legally dubious but also strategically unwise. PASS THE REMOTE The sometimes contradictory demands of the American people -- perfect security at home without burdensome military engagements abroad -- have fueled the technology-driven, tactical approach of drone warfare. But it is never wise to let either gadgets or fear determine strategy. There is nothing inherently wrong with replacing human pilots with remote-control operators or substituting highly selective aircraft for standoff missiles (which are launched from a great distance) and unguided bombs. Fewer innocent civilians may be killed as a result. The problem is that the guidelines for how Washington uses drones have fallen well behind the ease with which the United States relies on them, allowing short-term advantages to overshadow long-term risks. **Drone strikes must be legally justified, transparent, and rare.** Washington needs to better establish and follow a publicly explained legal and moral framework for the use of drones, making sure that they are part of a long-term political strategy that undermines the enemies of the United States. With the boundaries for drone strikes in Pakistan, Somalia, and Yemen still unclear, the United States risks encouraging competitors such as China, Iran, and Russia to label their own enemies as terrorists and go after them across borders. If that happens -- if counterterrorism by drone strikes ends up **leading to globally destabilizing interstate wars** -- then al Qaeda will be the least of the United States’ worries.

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#### Orienting ourselves primarily towards the state fails

Wilderson 10– Frank Wilderson III, professor of Drama and African American studies at the University of California, Irvine, *Red, White & Black: Cinema and the Structure of U.S. Antagonisms* pg 9-11, dml)

Regarding the Black position, some might ask why, after claims successfully made on the state by the Civil Rights Movement, do I insist on posting an operational analytic for cinema, film studies, and political theory that appears to be a dichotomous and essentialist pairing of Masters and Slaves? In other words, why should we think of today’s Blacks in the US as Slaves and everyone else (with the exception of Indians) as Masters? One could answer these questions by demonstrating how nothing remotely approaching “claims successfully made on the State” have come to pass. In other words, the election of a Black president aside, police brutality, mass incarceration, segregated and substandard schools and housing, astronomical rates of HIV infection, and the threat of being turned away en masse at the polls still constitute the lived experience of Black life. But such empirically based rejoinders would lead us in the wrong direction; we would find ourselves on “solid” ground, which would only mystify, rather than clarify, the question. We would be forced to appeal to “facts,” the “historical record,” and empirical markers of stasis and change, all of which could be turned on their head with more of the same. Underlying such a downward spiral into sociology, political science, history, and public policy debates would be the very rubric that I am calling into question: the grammar of suffering known as exploitation and alienation, the assumptive logic whereby subjective dispossession is arrived at in the calculations between those who sell labor power and those who acquire it. The Black qua the worker. Orlando Patterson has already dispelled this faulty ontological grammar in Slavery and Social Death, where he demonstrates how and why work, or forced labor, is not a constituent element of slavery. Once the “solid” plank of “work” is removed from slavery, then the conceptually coherent notion of “claims against the state”—the proposition that the state and civil society are elastic enough to even contemplate the possibility of an emancipatory project for the Black position—disintegrates into thin air. The imaginary of **t**he state and civil society is parasitic on the Middle Passage. Put another way: no slave, no world. And, in addition, as Patterson argues, no slave is in the world.

If, as an ontological position, that is, as a grammar of suffering, the Slave is not a laborer but an anti-Human, a positionality against which Humanity establishes, maintains, and renews its coherence, its corporeal integrity; if the Slave is, to borrow from Patterson, generally dishonored, perpetually open to gratuitous violence, and void of kinship structure, that is, having no relations that need be recognized, a being outside of relationality, then our analysis cannot be approached through the rubric of gains or reversals in struggles with the state and civil society, not unless and until the interlocutor first explains how the Slave is of the world. The onus is not on one who posits the Master/Slave dichotomy, but on one who argues there is a distinction between Slaveness and Blackness. How, when, and where did such a split occur? The woman at the gates of Columbia University awaits an answer.

#### Education about the process of the law displaces our ethical agency

Rozo 4

(MA in philosophy and Cultural Analysis, 2004 Diego, Forgiving the Unforgivable: On Violence, Power, and the Possibility of Justice p 19-21)

Within the legal order the relations between individuals will resemble this logic where suffering is exchanged for more, but ‘legal’ suffering, because these relations are no longer regulated by the “culture of the heart” [*Kultur des Herzens*]. (CV 245) As Benjamin describes it, the “legal system tries to erect, in all areas where individual ends could be usefully pursued by violence, legal ends that can be realized only by legal power.” (CV 238) The individual is not to take law in his own hands; no conflict should be susceptible of being solved without the direct intervention of law, lest its authority will be undermined. Law has to present itself as *indispensable* for any kind of conflict to be solved. The consequence of this infiltration of law throughout the whole of human life is paradoxical: the more inescapable the rule of law is, the less responsible the individual becomes**.** Legal and judicial institutions act as avengers in the name of the individual. Even the possibility of forgiveness is monopolized by the state under the ‘right of mercy’. Hence the responsibility of the person toward the others is now delegated on the authority and justness of the law. The legal institutions, the very agents of (legal) vengeance exonerate mefrom my essential responsibility towards the others, breaking the moral proximity that makes every ethics possible.20 Thus I am no longer obliged to an other that by his/her very presence would demand me to be worthy of the occasion (of every occasion), because law, by seeking to regulate affairs between individuals, makes this other anonymous, *virtual:* his otherness is equaled to that of every possible other. The Other becomes faceless, making it all too easy for me to ignore his demands of justice, and even to exert on him violence just for the sake of legality. The logic of evil, then, becomes not a means but an end in itself**:**21 state violence for the sake of the state’s survival. Hence, the ever-present possibility of the worst takes the form of my unconditional responsibility towards the other being delegated on the ideological and totalitarian institutions of a law gone astray in the (its) logic of self- preserving vengeance. The undecidability of the origin of law, and its consequent meddling all across human affairs makes it possible that the worst could be exerted in the name of law. Even the very notion of crimes against humanity, which seeks to protect the life of the population, can be overlooked by the state if it feels threatened by other states or by its own population.22 From now on, my responsibility towards the Other is taken from me, at the price of my own existence being constantly threatened by the imminent and fatal possibility of being signaled as guilty of an (for me) indeterminate offence. In this picture, the modern state protects my existence while bringing on the terror of state violence – the law infiltrates into and seeks to rule our most private conflicts.

## 1NR

### anthro

#### The impact outweighs—conceded uniqueness claim that there is an ongoing war on the species that we are participatory in—addressing this is a prerequisite to any ethical judgments

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(Joseph, *State Violence and the Execution of Law: Biopolitical Caesurae of Torture, Black Sites, Drones* pg 36-37, dml)

Here Foucault offers us an alternative point of entry of ‘life into history’ – an entry point in which life and the biological, and their exertion of pressure on history, are not anthropocentrically delimited and that, crucially, open up an historical vista that stretches back for ‘thousands of years.’ What Foucault provocatively suggests in his opening of a long historical vista that is not reductively qualifi ed in anthropocentric terms is the possibility to think through other historical conditions of emergence for his conceptualization of the biopolitical – specifi cally, of the pressure exerted by animals on the human historical or, more accurately, of the violent pressure exerted by the human historical on the animal biological. This violent pressure needs to be named for what it is: ‘a veritable war of the species.’ 14 Refl ecting soberly on this other biopolitical war, Derrida writes: ‘This war is probably ageless but . . . it is passing through a critical phase.’ Inscribed in the articulation of this critical phase is a call to assume ethical responsibility for the very terms of conduct of this war: ‘To think the war we fi nd ourselves waging is not only a duty, a responsibility, an obligation, it is also a necessity, a constraint that, like it or not, directly or indirectly, no one can escape. Henceforth more than ever.’ 15 Dinesh Wadiwel locates this biopolitical war in conditions of emergence that enunciate Western politics as always- already biopolitical: ‘In Agamben’s words: “the decisive political confl ict, which governs every other confl ict, is that between the animality and the humanity of man.” That is to say, in its origin Western politics is also biopolitics.’ ‘Western politics,’ Wadiwel concludes, ‘expresses the fact of war between human and animal life.’ 16

In what follows, I want to begin to suggest an anteriority or prehistory of biopolitics that is gestured to but remains unrealized in Foucault’s long historical vista; a prehistory of biopolitics that is concerned with political economies of the enslavement and slaughter of animals. Through this move, I hope to enact an ethical anteriority of responsibility for the animal other. This prehistory is doubly anachronic and doubly other: it is anachronic in that it retrospectively ruptures anthropocentric teleologies and the singular identity of a human- synthesizingsubject that presumes to occupy an originary ground; it is doubly other in that it is always- already animal to the human and, tautologically, to the historical. And, fi nally, it enunciates the possibility of ethics precisely by discerning ethics in the face of an animal other traditionally outlawed from the domain of the ethical and thus unrecognizable in terms of the very ethicity of ethics.

#### Mutually exclusive

**Taylor 98**

Prue **Taylor**, Senior Lecturer of law and a founding member of the New Zealand Centre for Environmental Law at the University of Auckland,**1998**

[An Ecological Approach to International Law: Responding to the Challenges of Climate Change (Hardcover) p. 39-42, 45-48]

The question 'are ecocentric ethics really necessary?' is frequently asked. Could we not, for example, achieve our environmental goals by more rigorous environmental legislation? Obviously much could be improved as a consequence of tighter controls, but two important limitations would remain. First, the question of 'how clean is clean' would continue to be answered solely by reference to human needs and standards. Thus water quality would he determined by interests such as human welfare, recreation needs and aesthetic values. The interests of nature and the needs of fully functioning ecosystems, which full below a human‑centred threshold, would be left unprtxected. By taking into account a much larger and more complex set of ecocentrically determined interests, tougher environmental standards would he achieved.217 Second, as Bosselmann points out, decision‑makers would not be able to make the important paradigm jump to protecting nature for its own sake. Worse, in cases where decision‑makers felt morally committed to such a jump, they would be forced to find constrained logic to justify their decisions. The variety of ethical approaches to environmental decision‑making has raised the question of moral pluralism. Stone, for example, has suggested that situations can be resolved according to either anthropocentric or ecocentric views depending on the nature of the problem. Thus decision makers are able to switch from one value system to another. Such a process is rejected by commentators such as 3. Baird Callicott who believes that ecocentric ethics are 'not only a question of better rational arguments but the expres­sion of a fundamentally changed attitude to nature. Callicott reminds Stone that anthropocentric attitudes and ecocencric ethics represent quite different paradigms. That in reality **people do not follow anthropocentric attitudes in the morning, only to switch to ecocentric ethics after lunch**. In the context of New Zealand's primary environmental legislation, this debate is currently being worked through in practice. The Resource Management Act 1991 (1RMA') is guided by 'sustainable management', a concept which is defined in both anthropocentric and ecocentric terms, leaving room for tension between the supporters of alternative approaches." 221 To date the RMA has been largely dominated by anthropocenisic interests due to a failure by key authorities, such as the Environment Court and local govern‑ ment, to make the significant changes in attitude required by the Act's ecocentric principles. It has been suggested that this tension, evident in implementation of the RMA, can only be resolved by an interpretation of sustainable management' which is ecological.

#### The affirmative requires a humanist thinking and speaking subject—radically devalues the nonhuman.

**Bell and Russell 2000** [Anne C. and Constance L., “Beyond Human, beyond Words: Anthropocentrism, Critical Pedagogy, and the Poststructuralist Turn”, Canadian Journal of Education, Vol. 25, No. 3 pp. 188-203, JSTOR]

Critical pedagogy with a background in environmental thought and education: the influence of the relationships among humans and the “more-than-human world” (Abram, 1996) and the way these relationships are described in a modern industrial world and the implications and consequences (such as the current environmental crisis – species extinction, ozone depletion, acid rain, deforestation, toxic contamination, topsoil depletion, climate change). This reflects predominant Western concepts of nature as mindless matter, a resource to be exploited for human gain. Therefore there is a need to critique prevailing discourses about nature and to consider alternative representations. ¶ This is fundamental not just to the environmentalists as there is a need to disrupt the social scripts that structure and legitimise the human domination of nonhuman nature. The exploitation of nature is not separate from the exploitation of human groups. So we must call into question the instrumental exploitive gaze through which humans distance ourselves from the rest of nature (Carlson, 1995).¶ So movements against oppression need to support each other. So far race, gender, sexuality, class has proceeded with little acknowledgement of the systematic links between human oppressions and the domination of nature. The more-than-human world and the human relationships to it have been ignored as if irrelevant. The voice of the nonhuman has been absent from histories and rethinking culturally positioned essentialisms is required.¶ There is a need to scrutinise the language used, the meanings deployed, and the episomological frameworks of past eras. To keep social categories the as unchanging and stable is to reproduce the prevailing relations of power (Britzman et al., 1991).¶ For example: Freire (1990) states that the difference between man and animal as defined by sharp hierarchical dichotomy that established human superiority. Humans (alone) are aware, self-conscious beings who are able to infuse the world with creative presence, to overcome situations that limit them and thus demonstrate a “decisive attitude towards the world”. Animals lack such traits – and therefore being doomed to passively accept the given that their lives are totally determined. Thus humans inhabit a world which they create and transform and from which they separate themselves – animals, however, only inhabit a mere physical space to which they are organically bound. This becomes the normal way of seeing the world (which like other discourses of normalcy) limiting the possibilities of taking up and confronting inequities. The primacy of human enterprise is simply not questioned.¶ Anthropocentrism passes unchallenged.¶ Roots of a critique¶ Root metaphors in critical pedagogy that reinforce the problem of anthropocentric thinking:¶  The notion of change as inherently progressive¶  Faith in the power of rational thought¶  An understanding of individuals as “potentially free, voluntaristic entities who will take responsibility for creating themselves when freed from societal forms of oppression”¶ These assumptions are part of the Enlightenment legacy on which critical pedagogy and liberal education is generally based.¶ Proponents of critical pedagogy have yet to confront the ecological consequences of an educational process that reinforces beliefs and practices formed when unlimited economic expansion and social progress seemed promised (Bowers, 1993b). Bringing into focus the underlying tension between “freedom” as it is constituted within critical pedagogy and the limits that emerge through consideration of humans’ interdependence with the more-than-human world.¶ Tension is symptomatic of anthropocentrism and is leads to the assumption that humans are different and in fact superior (in Western thought), thus justifying the exploitation of nature and “othered” human groups.¶ Language, when though of an exclusively human property, undermines our embodied sense of interdependence with the more-than-human world, rather than being an entry point of communication webs around us. It becomes the medium through which we set ourselves apart and above.¶ Language allows us to give meaning to the world around us. Subjectivity is constructed by and in language. So… “if subjectivity, willing, valuation, and meaning are securely lodged in the domain of humanity, the possibility of encountering anything more than material objects in nature is nil.” (Evernden, 1992).