### Off 1

Interp – Topical affs must increase STATUTORY and/ or JUDICIAL restrictions.

#### Statutory restrictions are controls or limits imposed by the legislative body

Blacks Online Legal Dictionary 13

(2nd Edition, http://thelawdictionary.org/statutory-restriction/)

Statutory Restriction- Limits or controls that have been place on activities by its ruling legislation.

#### Judicial belongs to court of law

Oxford English Dictionary Online (Oxford University

(http://www.oed.com/view/Entry/101916?redirectedFrom=judicial+#eid)

Of or belonging to judgment in a court of law, or to a judge in relation to this function; pertaining to the administration of justice; proper to a court of law or a legal tribunal; resulting from or fixed by a judgment in court.

#### Violation

#### Aff isn’t statutory or judicial – it’s just a normative statement about US policy.

#### Reasons to prefer and voting issue –

#### Predictable limits – allows affs to impose any number of restrictions, kills research ability and in debth debates on the topic

#### Ground – Steals core neg ground like XO and Statism Ks, also justifies affs that have the exec check itself, killing fairness

### Off 2

#### Nathan and I offer our counter advocacy that we should end indefinite detention.

#### Solves their aff better - the 1ac has made a case that homonationalism pervades society, it is entrenched through practices like patriotism. Yet their remedy to this is complete faith in the normative legal framework through the plan text. This directly bites into their Shomura ‘9 ev, which criticizes any strategy which begins from the perspective of changing the government.

#### Language like 'President of the united states' always already implies a legalistic framework - this dooms their solvency.

Schlag ‘90 (Pierre, professor of law at the University of Colorado, Stanford Law Review, lexis, AM)

In fact, normative legal thought is so much in a hurry that it will tell you what to do even though there is not the slightest chance that you might actually be in a position to do it. For instance, when was the last time you were in a position to put the difference principle n31 into effect, or to restructure [\*179] the doctrinal corpus of the first amendment? "In the future, we should. . . ." When was the last time you were in a position to rule whether judges should become pragmatists, efficiency purveyors, civic republicans, or Hercules surrogates? Normative legal thought doesn't seem overly concerned with such worldly questions about the character and the effectiveness of its own discourse. It just goes along and proposes, recommends, prescribes, solves, and resolves. Yet despite its obvious desire to have worldly effects, worldly consequences, normative legal thought remains seemingly unconcerned that for all practical purposes, its only consumers are legal academics and perhaps a few law students -- persons who are virtually never in a position to put any of its wonderful normative advice into effect.

#### They bear whiteness to violence, but they assume that homonationalism is found in the executive - we must own up to our own tendencies for violence.

Kappeler 95 (Susanne, The Will to Violence: The politics of personal behavior, Pg. 10-11)

Yet our insight that indeed we are not responsible for the decisions of a Serbian general or a Croatian president tends to mislead us into thinking that therefore we have no responsibility at all, not even for forming our own judgment, and thus into underrating the responsibility we do have within our own sphere of action. In particular, it seems to absolve us from having to try to see any relation between our own actions and those events, or to recognize the connections between those political decisions and our own personal decisions. It not only shows that we participate in what Beck calls 'organized irresponsibility', upholding the apparent lack of connection between bureaucratically, institutionally, nationally, and also individually organized separate competences. It also proves the phenomenal and unquestioned alliance of our personal thinking with the thinking of the major power mongers, For we tend to think that we cannot 'do' anything, say, about a war, because we deem ourselves to be in the wrong situation because we are not where the major decisions are made. Which is why many of those not yet entirely disillusioned with politics tend to engage in a form of mental deputy politics, in the style of 'what would I do if I were the general, the prime minister, the president, the foreign minister or the minister of defense?' Since we seem to regard their mega spheres of action as the only worthwhile and truly effective ones, and since our political analyses tend to dwell there first of all, any question of what I would do if I were indeed myself tends to peter out in the comparative insignificance of having what is perceived as 'virtually no possibilities': what I could do seems petty and futile. For my own action I obviously desire the range of action of a general, a prime minister, or a General Secretary of the UN - finding expression in ever more prevalent formulations like 'I want to stop this war', 'I want military intervention', 'I want to stop this backlash', or 'I want a moral revolution. 'We are this war', however, even if we do not command the troops or participate in co-called peace talks, namely as Drakulic says, in our non-comprehension': our willed refusal to feel responsible for our own thinking and for working out our own understanding, preferring innocently to drift along the ideological current of prefabricated arguments or less than innocently taking advantage of the advantages these offer. And we 'are' the war in our 'unconscious cruelty towards you', our tolerance of the 'fact that you have a yellow form for refugees and I don't'- our readiness, in other words, to build identities, one for ourselves and one for refugees, one of our own and one for the 'others.' We share in the responsibility for this war and its violence in the way we let them grow inside us, that is, in the way we shape 'our feelings, our relationships, our values' according: to the structures and the values of war and violence.

#### Turns us into bodies to be mobilized for destruction.

Salter 85. M.G. Salter, lecturer in criminal law at the University of Birmingham, “The Rule of Power in the Language of Law,” The Liverpool Law Review Vol.VII(1) [1985] pg. 45

Through this linguistic patterning of administered time, the student is kept under the continual assessment of normalising judgments that examine, compare and contrast in order to accumulate a knowledge. Even the measurers are themselves externally measured, graded and assessed. Between staff, considerations of tactics determine aspects of discourse. Rarely is complete openness and honesty strategic.¶ Power also operates through legal discourse to assemble specific relations between people through individualising and collectivising them into pre-given categories. We can see this within the landlord tenant relationship. Even in their legal battles and formal agreements the relations between landlords and tenants are pre-determined through such notions as property, ownership and possessory rights. These shape the formation of intentions and the consequences of action. Legal battles for "student rights", "tenants rights" or those for blacks, consumers and women, take place upon a language already worked by power and for which the determination of what "tenancy'~ "rights" etc.~ means has already happened.¶ It is therefore inadequate to see these effects of power as mere rituals without penetrating deeper into the rules of operation that make possible and govern such elements of discourse. These rules set up an order of succession between different speakers' contributions, they determine who has the right to follow whom~ to interrupt, overrule~ qualify remarks~ re-interpret in "the light of broader policy considerations" and which positions may be taken upon what has been said by previous speakers and the status of statements made. Power also determines the effect of these modifications upon the subsequent authority of the overruled speaker.¶ Not only is the "who" prescribed in advance, but the "how" of these overrulings, qualifications, re-interpretations etc. If a statement by the Attorney-General over the use of the Emergency Powers legislation during violent strikes and unlawful picketing is subsequently to be qualified, this cannot be done in just any fashion. Power thus enforces what it has already established as the "proper" manner of any qualification. This has already pre-defined what specific element can~ in that particular qualifying discourse~ be related to what other~ if it is to count as a successful use of a particular ritualised tactic. Breach of these rules established under certain laws of co,possibility leads not to a successful "qualification" of the Attorney-General's earlier statement~ but to something else -perhaps an unintended public humiliation of a senior member of government. ¶ In our academic discourse the power of the legal professions to impose a particular form and content for "their" qualification has already structured the occasion of any possible discourse. Both inside and outside academia power has already declared which qualified person, occupying which certified occupation for how many years can give an authoritative rendition of any particular law. (8) Also it pre-determines from what place this must be offered and according to which rituals of circumstance - accompanying gestures, style and body positions - to maintain the authority of the speaker. (9)¶ A law of compossibility has then laid down rules whose historical interplay determine why the appearance and disappearance of a particular discourse could not have occurred otherwise. The effects of their operation is to assemble and hold together not only a particular legal theme, but also a group of subjects whose status empowers them to speak and command an audience upon this theme. For example, the legality of bail conditions imposed upon pickets is not a theme for anyone at any time or place. Whether student, lecturer, defence lawyer, trade union leader or picket, mastery of these rules by the subject they create within the field they open up is a pre-condition for successful practical action within it. This is certainly true when the sites are the adversarial, and therefore highly tactical, atmospheres of court rooms, television debates or picket lines.¶ Such mastery and command does not make a person master of the rules themselves. It is still power that is heard when language speaks; they are no-onets personal possession or plaything. They are outcomes of chosen practices they themselves have made possible. It does not then appear to be a question of a "ruling class" which owns and therefore has certain power at its free disposal consciously to secure its rule over a dominated class. If anything the relationship is that power rules through establishing the meaning of particular social relationships. One has power like one has a cold, i.e. we are had by it and must make the best of it, develop resistance, fight the symptoms that aggravate us, discover, understand and use its effects to our advantage. No-one is exempt. The unfinished rituals power establishes generate our legal and ethical codes as well as the social relationships of their field of application. These relationships themselves create potentially violent tensions whose threat and reality support the widely felt need for such codes and law.¶ Power operates as much through the understanding as the speaking of legal discourse. Thus even the individual's understanding of law is made to "run on time" according to preset and administered rhythms. The intelligibility of laws governing, say, official secrets and labour relations, are constantly established through what is written and said in and about them. This constituted intelligibility is not in itself dependent upon administrative and labour practices. Instead, the dependency of its theme is articulated through language which makes constant but selective use of these relations. It does so in order to lay down a way in which these relations can be authoritatively addressed through it. As a lawyer I should be able to understand these laws better than those to whom they directly apply. Of course, it is a different matter to consider what this established intelligibility then means for administrators and trade unionists.¶ Power therefore delimits and holds together a select audience for particular legal discourses. The authoritative legal version which I may attempt to render is cornered by a particular profession and expressed upon non-legal and external practices such as journalism~ trade unionism, policing, law courts and prisons. From such constituted/constituting sources legal discourse has inscribed upon it~ and inserted within it~ an implicit philosophy of life, system of ethics and criteria for "sound judgement". These are not essentially or exclusively legal in character, but are bound up with the evolution of modernist societies and their struggles with unaccountable feudal and royal power. For example, the struggle for the rule of law has always been a power-struggle between competing potential law makers, for access to and control over law making machinery and then for the gaining of universal social recognition of the laws that have been made. There can also be a struggle within academia between and among students and lecturers over the weight given to purely academic matters, research, professional training etc., that occur against external government financial and relevancy criteria.

#### Change must begin with the self - their political strategy of critique on the other 'out there' will fail, we must begin our critique with our selves in here.

Chandler 13 – prof of IR @ Westminster¶ (The World of Attachment? The Post-humanist Challenge to Freedom and Necessity, Millenium: Journal of International Studies, 41(3), 516– 534)

The world of becoming thereby is an ontologically flat world without the traditional hierarchies of existence and a more shared conception of agency. For Bennett, therefore, ‘to begin to experience the relationship between persons and other materialities more horizontally, is to take a step toward a more ecological sensibility’.78 Here there is room for human agency but this agency involves a deeper understanding of and receptivity to the world of objects and object relations. Rather than the hubristic focus on transforming the external world, the ethico-political tasks are those of work on the self to erase hubristic liberal traces of subject-centric understandings, understood to merely create the dangers of existential resentment. Work on the self is the only route to changing the world. As Connolly states: ‘To embrace without deep resentment a world of becoming is to work to “become who you are”, so that the word “become” now modifies “are” more than the other way around.’ Becoming who you are involves the ‘microtactics of the self’, and work on the self can then extend into ‘micropolitics’ of more conscious and reflective choices and decisions and lifestyle choices leading to potentially higher levels of ethical self-reflectivity and responsibility. Bennett argues that against the ‘narcissism’ of anthropomorphic understandings of domination of the external world, we need ‘some tactics for cultivating the experience of our selves as vibrant matter’. Rather than hubristically imagining that we can shape the world we live in, Bennett argues that: ‘Perhaps the ethical responsibility of an individual human now resides in one’s response to the assemblages in which one finds oneself participating. Such ethical tactics include reflecting more on our relationship to what we eat and considering the agentic powers of what we consume and enter into an assemblage with. In doing so, if ‘an image of inert matter helps animate our current practice of aggressively wasteful and planet-endangering consumption, then a materiality experienced as a lively force with agentic capacity could animate a more ecologically sustainable public’. For new materialists, the object to be changed or transformed is the human – the human mindset. By changing the way we think about the world and the way we relate to it by including broader, more non-human or inorganic matter in our considerations, we will have overcome our modernist ‘attachment disorders’ and have more ethically aware approaches to our planet. In cultivating these new ethical sensibilities, the human can be remade with a new self and a ‘new self-interest’.

### Off 3

#### If there is something to be read from the 1AC, it is that they are critical of the way 9/11 has become, for them, exemplary of a politics of exclusion. There is a danger in this singular reading of 9/11 - it reproduces the logic of the "meta-narrative" which closes off dissent and reinscribes binary oppositions.

Bond 8 - Masters in Cultural Memory (Lucy, MA Cultural Memory Master’s Thesis @ Goldsmiths University of London Department of English and Comparative Literature—Under Dr. Rick Crownshaw, Lecturer in English @ Goldsmiths University of London Department of English and Comparative Literature, September 15, 2008, “Full of Sound and Fury, Signifying Nothing: How is 9/11’s memorial culture reflective of a crisis in representation that has endangered limiting templates of remembrance?,” sas-space.sas.ac.uk/1793/)

In both of these interpretations, the “experience” of 9/11 has

AND

of discourse, that do not allow any opportunity for dissent or critique.

#### I think we were outside for recess at the time, but I can’t be sure because all I remember is crowding around the TV watching the planes explode into the towers time after time on Fox News. I was in the second grade.

#### The aff is a strategy of mythologization - reducing the complexity of 9/11 to a plug-and-play narrative - this is a strategy which allowed social forces to shift a view of 9/11 as a historical event and replaces it for the thing itself - the object of analysis- . This makes true mourning and grievability impossible, which is our alternative. this politics of grievability is key to maintain a critical distance that subverts the closure of American politics which has produced the impacts the aff isolates.

Bond 8 - Masters in Cultural Memory (Lucy, MA Cultural Memory Master’s Thesis @ Goldsmiths University of London Department of English and Comparative Literature—Under Dr. Rick Crownshaw, Lecturer in English @ Goldsmiths University of London Department of English and Comparative Literature, September 15, 2008, “Full of Sound and Fury, Signifying Nothing: How is 9/11’s memorial culture reflective of a crisis in representation that has endangered limiting templates of remembrance?,” sas-space.sas.ac.uk/1793/)

This demonstrates the close interrelation of the entire commemorative process across the political, mediatised, literary and scholarly domains. It is particularly remarkable, for instance, that the insistence upon the vast reach of post-9/11 trauma that dominated the media in 2001-2, and formed the foundation for much early academic theorising of 9/11, should by 2007 still be the chosen model for literary representations. This commingling of discursive modes suggests to me a convergence of theory and practice that has left it hard to articulate, in any meaningful way, a more historicised account of September 11. This fixing of modes of representation might itself be viewed as a process of mythologisation. As Tal argues, “**Mythologization works by reducing a traumatic event to a set of standardized narratives**” (Tal 1996:6). September 11’s mythologisation has indeed led to the development of a number of such standardised narratives, each feeding into one predominant discursive trope. This might be seen as a highly sentimental representation that seeks some promise of redemption: either, in the public-political sphere, by producing narratives of heroism; or, in literary renditions, by the characters’ **search for a way to undo, reclaim, or tame, history. The effect of this uniformity of expression is that “Traumatic events are written and rewritten until they become codified and narrative form gradually replaces content as the focus of attention”** (Tal 1996:6). This process has significant repercussions for cultural memory as it ensures that we are able to recall “not the memory of the complex set of historical and cultural events that comprised [for example] the Third Reich, but rather a distilled and reified set of images for which “Holocaust” has become the metonym” (ibid:7). A similar reification of September 11 has occurred in commemorative culture. Accordingly, “9/11” has become the metonym for a series of images and narratives that on one hand emphasise the trauma of the America population, and on the other **attempt to elevate this victimhood** into a redemptive heroic image that reinforces a triumphal national identity. Because they were predetermined by the dominant forms of representation prior to the attacks, however, **this set of symbols excludes the actual events of September 11. Memorial culture thus reflects very little about 9/11 itself, but fixates instead upon its aftermath: determined either to produce a healing effect or to demonstrate the working-through of traumatic memory that might lead to such closure**. LaCapra argues against such simplifying forms of commemoration, and stresses the need for “a complex, self-questioning understanding of working through the past in which the alternatives are not reduced to a justifiably criticized idea of total transcendence of problems, full ego identity, totalizing meaning, mastery, or complacent cure on the one hand, and an insufficiently qualified valorization of trauma [...] on the other” (LaCapra 2004:142-3). He advocates a form of narrative that induces empathetic unsettlement: “an aspect of understanding that stylistically upsets the narrative voice and counteracts harmonizing narration or unqualified objectification yet allows for a tense interplay between critical, necessarily objectifying (even self-protectively “numbing”) reconstruction and affective response to certain problems” (ibid:140). Empathetic unsettlement is a form of “heteropathic identification. And it involves virtual not vicarious experience” (ibid:135). It allows one to put one’s self in another’s position without appropriating the victim’s voice or suffering. In essence, empathetic unsettlement induces critical distance between one’s self and the subject of commemoration (in this case, the victims of 9/11 and those who suffered genuine trauma in the aftermath of the attacks), facilitating greater reflexivity and perspective. This would be invaluable to both of the commemorative approaches outlined here. In the first instance, **it would allow citizens to maintain a critical distance between themselves, their nationality and the highly mythologised and redemptive vision of America** embraced by the Freedom Tower and associated discourses of heroism. In relation to the novels analysed in Chapter II, empathetic unsettlement would destabilise the organising power of trauma paradigms, and prevent the collapse of the distinctions between event and experience that result **from the over-extension of trauma**. LaCapra argues that “there is something inappropriate about signifying practices- histories, films or novels, for example- that in their very style or manner of address tend to overly objectify, smooth over, or obliterate the nature and impact of the traumatic events they treat” (LaCapra 2004:136). I believe that such a smoothing over of 9/11 is strongly evidenced by memorial culture to date. This effacement of historical complexity is caused by an over-identification (whether with the national image as manifested in propagandist memorial objects, or with the victims of 9/11 and their families), which might be countered by a commemorative approach more appreciative of the virtues empathetic unsettlement. **In its absence, a tragedy that might have been seized as an opportunity for generating empathy with other suffering peoples has instead engendered an intensification of American introspection, compounding an already isolationist position.** Judith Butler contends that instead of this self- congratulatory solipsism, a better reaction to 9/11 would have been “to reflect upon injury, to find out the mechanisms of its distribution, to find out who else suffers from permeable borders, unexpected violence, dispossession, and fear, and in what ways” (Butler 2004:xii). It is noticeable that none of the commemorative projects analysed here espouses an outward looking vision, but each engenders an introspective portrait of America as either a land of traumatised individuals, or a glorious nation espousing timeless virtues. If organised around Butler’s philosophy, however, memorial projects might reflect the fact that “the dislocation from First World privilege, however temporary, offers a chance to start to imagine a world in which violence might be minimized, in which an inevitable interdependency becomes acknowledged as the basis for global political community” (Butler 2004:xii-xiii). In fact, the original masterplan for Arad and Walker’s Reflecting Absence involved a feature called the International Freedom Center Museum, which endeavoured to embody the empathetic outlook that Butler espouses. Although its name bears an unfortunate similarity to Libeskind’s redemptive rhetoric, the Freedom Center aimed to reflect upon diverse global injustice. As its mission statement posits, “The Freedom Center...was envisioned as a living memorial in which the story of Sept 11, 2001, would be told in the context of the worldwide struggle for freedom through the ages” (Dunlap 2005). It was lauded as a place where the “world’s great leaders, thinkers, and activists” might participate in debates examining the “foundations of free and open societies” (Burlingame 2005). However, Ground Zero’s designation as a sacred site stymied any such plans, as “critics said the sacred precinct of the memorial was no place for a lesson in geopolitics or social history” (ibid.). The Freedom Center’s responsibility to consider the US’ own miscarriages of justice, from slavery to Abu Ghraib, threatened to undermine the vision of liberty embraced by the Freedom Tower. Even stranger than suggesting that a memorial built in the name of freedom should aim to forget or dismiss instances of pitiful human bondage, is Debra Burlingame’s assertion that the Museum would actually work to undermine freedom17. She argued that the Freedom Center would become the domain of the liberal-left, “people whose inflammatory claims of a deliberate torture policy at Guantanamo Bay are undermining this country’s efforts to foster freedom elsewhere in the world” (ibid.). Burlingame scorns the idea that it “is not only history’s triumphs that illuminate, but also its failures” (ibid.). Such desire to depict a purely redemptive history has resonated throughout 9/11’s memorial culture. Like Burlingame, its advocates appear to believe, that “Instead of exhibits and symposiums about Internationalism and Global Policy we should hear the story of the courageous young firefighter whose body, cut in half, was found with his legs entwined around the body of a woman” (ibid.). These tales of sacrifice and heroism form the core of the sentimentalised knowledge industry responsible for rendering Americans the infantile citizens of which Berlant despairs. They demonstrate the perceived need to unify around a consolatory vision rather than to engage in informed and reasoned debate that might breed an empathetic respect for diversity, instead of an alienating obsession with self- defence and pre-emptive violence. The Freedom Center (in my opinion the most reasoned and reflective component of 9/11’s memorial culture to date) fell foul of the trend towards unifying simplification that LaCapra cautions against. When it was abandoned as the centrepiece for Reflecting Absence in 2005, New York Governor, George Pataki, justified his decision by saying that “Freedom should unify us, this tower has not” (Dunlap 2005). Like Pataki, Burlingame has a very precise vision of “freedom”, which she defines (somewhat vaguely) as being that of American Marines rather than the proposed Freedom Center. As Foner argues, however, “Freedom has always been a terrain of conflict, subject to multiple and competing interpretations, its meaning constantly created and recreated” (Foner 1998:xv). In attempting to unify the idea of freedom, Burlingame, Pataki and Libeskind perpetuate a system of hermeneutic hegemony that works to eliminate dissent. As with cynical nationalism, the perception of unity is all that matters, whether the identification is real or pretended. Accordingly, Ground Zero will not now herald the possibility of a place of reflection where conflicting voices might be heard on an equal platform. It is tempting to formulate the fissures that have arisen in the debate over processes of representation along political grounds and argue with Berlant and Foster that the sentimentalisation of the public sphere, the practice of “stealth” politics, and the predominance of consciously empty rhetoric are uniquely the ideological tools of the political Right. This is inevitably a simplification. However, I wish to return to Žižek's analogy and suggest that potentially enlightening processes of debate and dissent have been suffocated by the ideological quilt that has been woven from 9/11. Alongside this, it appears as though the critical faculties of certain cultural contributors have been stifled by the overwhelming application of trauma studies to the analysis of the attacks. As I have aimed to demonstrate throughout this dissertation, **both of these trends have reified the memorial process, and lead to the assumption of limiting templates of remembrance that engender a narrow and introspective vision.**

### Case

#### Aff solves the ability to detain indefinitely – they do nothing about the ability to detain. This justifies and perpetuates stop and frisk laws.

#### 1.) Drone Shift

#### Capture over drones now

David **Corn 13**, Washington Bureau Chief at Mother Jones, 5/23/13, “Obama's Counterterrorism Speech: A Pivot Point on Drones and More?,” http://www.motherjones.com/mojo/2013/05/obama-speech-drones-civil-liberties

So Obama's speech **Thursday** on counterterrorism policies—which follows his administration's acknowledgment yesterday that it had killed four Americans (including Anwar al-Awlaki, an Al Qaeda leader in Yemen)—is a big deal, for with this address, Obama is self-restricting his use of drones and shifting control of them from the CIA to the military. And the president has approved making public the rules governing drone strikes.¶ The New York Times received the customary pre-speech leak and reported:¶ A new classified policy guidance signed by Mr. Obama will sharply curtail the instances when unmanned aircraft can be used to attack in places that are not overt war zones, countries like Pakistan, Yemen and Somalia. The rules will impose the same standard for strikes on foreign enemies now used only for American citizens deemed to be terrorists.¶ Lethal force will be used only against targets who pose "a continuing, imminent threat to Americans" and cannot feasibly be captured**,** Attorney General Eric H. Holder Jr. said in a letter to Congress, suggesting that threats to a partner like Afghanistan or Yemen alone would not be enough to justify being targeted.¶ These moves may not satisfy civil-liberties-minded critics on sthe right and the left**.** Obama is not declaring an end to indefinite detention or announcing the closing of Gitmo**—though** he is echoing his State of the Union vow to revive efforts to shut down that prison. Still, these moves would be unimaginable in the Bush years. Bush and Cheney essentially believed the commander in chief had unchallenged power during wartime, and the United States, as they saw it, remained at war against terrorism. Yet here **is** Obama subjecting the drone program to a more restrictive set of rules—and doing so publicly. This is very un-Cheney-like. (How soon before the ex-veep arises from his undisclosed location to accuse Obama of placing the nation at risk yet again?)¶ Despite Obama's embrace of certain Bush-Cheney practices and his robust use of drones, the president has tried since taking office to shift US foreign policy from a fixation on terrorism. During his first days in office, he shied away from using the "war on terrorism" phrase. And his national security advisers have long talked of Obama's desire to reorient US foreign policy toward challenges in the Pacific region. By handing responsibility for drone strikes to the military, Obama is helping CIA chief John Brennan, who would like to see his agency move out of the paramilitary business and devote more resources to its traditional tasks of intelligence gathering and analysis.¶ With this speech, Obama is not renouncing his administration's claim that it possesses the authority to kill an American overseas without full due process. The target, as Holder noted in that letter to Congress, must be a senior operational leader of Al Qaeda or an associated group who poses an "imminent threat of violent attack against the United States" and who cannot be captured, and Holder stated that foreign suspects now can only be targeted if they pose "a continuing, imminent threat to Americans." (Certainly, there will be debates over the meaning of "imminent," especially given that the Obama administration has previously used an elastic definition of imminence.) And Obama is not declaring an end to the dicey practice of indefinite detention or a conclusion to the fight against terrorism.

#### Plan spurs shift towards drones

**Chesney 11** (Robert, Charles I. Francis Professor in Law, University of Texas School of Law, “ARTICLE: WHO MAY BE HELD? MILITARY DETENTION THROUGH THE HABEAS LENS”, Boston College Law Review, 52 B.C. L. Rev 769, Lexis)

The convergence thesis describes one manner in which law might respond to the cross-cutting pressures associated with the asymmetric warfare phenomenon—i.e., the pressure to reduce false positives (targeting, capture, or detention of the wrong individual) while also ensuring an adequate capacity to neutralize the non-state actors in question. One must bear in mind, however, that detention itself is not the only system of government action that can satisfy that latter interest. Other options exist, including the use of lethal force; the use of rendition to place individuals in detention at the hands of some other state; the use of persuasion to induce some other state to take custody of an individual through its own means; and perhaps also the use of various forms of surveillance to establish a sort of constructive, loose control over a person (though for persons located outside the United States it is unlikely that surveillance could be much more than episodic, and thus any resulting element of “control” may be quite weak).210¶ From the point of view of the individual involved, all but the last of these options are likely to be far worse experiences than U.S.-administered detention. In addition, all but the last are also likely to be far less useful for purposes of intelligence-gathering from the point of view of the U.S. government.211 Nonetheless, these alternatives may grow attractive to the government in circumstances where the detention alternative becomes unduly restricted, yet the pressure for intervention remains. The situation is rather like squeezing a balloon: the result is not to shrink the balloon, but instead to displace the pressure from one side to another, causing the balloon to distend along the unconstrained side. So too here: when one of these coercive powers becomes constrained in new, more restrictive ways, the displaced pressure to incapacitate may simply find expression through one of the alternative mechanisms. On this view **it is no surprise that lethal drone strikes have increased dramatically over the past two years**, that the Obama administration has refused to foreswear rendition, that in Iraq we have largely (though not entirely) outsourced our detention operations to the Iraqis, and that we now are progressing along the same path in Afghanistan.212¶ Decisions regarding the calibration of a detention system—the¶ management of the convergence process, if you will—thus take place in the shadow of this balloon-squeezing phenomenon. A thorough policy review would take this into account, as should any formal lawmaking process. For the moment, however, our formal law-making process is not directed at the detention-scope question. Instead, clarification and development with respect to the substantive grounds for detention takes place through the lens of habeas corpus litigation.

#### 2.) Not barelife

Halit Tagma 09, Professor of Political Science, Arizona State , “Homo Sacer vs. Homo Soccer Mom: Reading Agamben and Foucault in the War on Terror,” Alternatives: Global, Local, Political, Vol. 34, No. 4 (Oct.-Dec. 2009), pp. 407-435

Thus in some respects, prisoners of the "war on terror" might be understood as homo sacer. However, there are also particularities in the way the prisoners are handled that call for a critical re-evaluation of the (non) space of Guántanamo. If in the classical Foucauldian teminology sovereign power is about "taking or granting life," and biopower is about "letting live and making life," then what can be said about the power operating in Guántanamo that "forces to live" when prisoners are carefully controlled to prevent them from committing suicide. Indeed, the prisoners of Guántanamo are force fed and even given mandatory health checks so as to insure they are kept, barely, alive. Unlike the homo sacer who may be killed but not sacrificed, the prisoners in Guantánamo may not be killed or sacrificed. In fact, extensive efforts are spent to keep the prisoners at Guantánamo alive, such as the creation of operating rooms for major health emergencies as well as facilities for dentistry. The prisoners are given health treatment similar to that provided to the troops at the base.60 No doubt the display of such "health benefits" could be read as window dressing conducted by the camp administrators. However, it is important to note that there are indeed serious efforts to keep the prisoners (often barely, but nevertheless) alive. Furthermore, punishment and interro- gation are orchestrated so that the use of violence does not result in death. Extensive efforts are made to prevent the prisoners from com- mitting suicide. In other cases, hunger-striking inmates have met with brutal forced feeding.61 Thus, in a striking unclassified army document that outlines procedures in Guántanamo Bay, guards are ordered to "defend detainees as you would yourself against a hostile act or intent, death, or serious bodily harm."62 Therefore it is correct to say that what goes in Guantánamo Bay is neither "letting live" nor "taking life," but instead "making live," or even "forcing to live."¶ Agamben argues that camps are places where sovereign "power confronts nothing but pure life."63 Guantánamo Bay, declared as being beyond the reach of law, is, in fact, regulated by many petty regulations that are characteristic of disciplinary power. Reading the re- ports of the Joint Task Force and prisoner testimonies, one comes to the conclusion that there is a plethora of rules and procedures that govern the treatment of Guántanamo prisoners.64 Whereas Agamben's statement on "zones of indistinction" would lead us to think that any- thing goes in the camp, this is far from the reality of Guántanamo. Every minuscule element of the lives of Guántanamo prisoners been planned and is, for the most part, regulated by a written a code of conduct.

Many foreseeable and probable occurrences that would be expected in a prison population have been forethought and written into a manual. Titled Standard Operating Procedures this 250-page manual outlines the rules, regulations, and procedures for treatment of prisoners in many probable circumstances.65 The manual outlines, for example, what to do if there is a petty riot, when and how to spray pepper spray on rioters, religious burials rituals for prisoners, and so on.66 This clearly hints that it is not just an exceptional sovereign power at work in Guántanamo, as exemplified in Rumsfeldian rhetorical salvos on "exceptional times requiring exceptional measures." In- stead, there are multiple technologies of power that are at work in the day-to-day administration of this space.67

### 2nc

### Case

#### This misarticulation is simillar to the tactic the states use in force-feeding detainees, which makes the aff a ploy at maintaining Empire's power by disempowering the detainee.

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On 22 May 2013, the Dutch State Secretary of Security and Justice and Minister for Migration offered the House of Representatives a memorandum issued by the Council of State2 concerning ‘the options to administer food and drink to an alien in detention who is on hunger and/​or thirst strike, against his will.’3 This essay sets out to unpack the main premises of these recommendations in the framework of biopolitics, its colonial heritage and contemporary deployment in the Netherlands. Whilst understood in a historical continuum, this little document gains relevance as it represents a significant step over the threshold of the human. The hurried policy briefing note came to address the mounting hunger strikes of asylum seekers, who have been protesting against being detained, asserting that they are not criminals but asylum seekers and demanding treatment befitting their status. The State Secretary was in a rush to control a potentially explosive situation — the eruption of the dead bodies of aliens in the public sphere — after the suicide of the Russian activist Aleksandr Dolmatov in a Dutch detention centre.4 The death of Dolmatov, who had formally applied for political asylum, caused a stir in the Netherlands due to international criticism. In death, Aleksandr Dolmatov became a priority to the Dutch state. The recommendations of the Council of State, originally issued on May 15, were made in response to the Secretary’s request on May 13 for information regarding, in particular, the ‘possible conflict’ between ‘the state’s plight to care for the “detained alien”’ and their ‘right for respect of one’s private life.’5 In the Netherlands, according to Amnesty International, the detention of asylum seekers following the asylum request became a common rather than extraordinary practice. Amnesty points out the fact that vulnerable groups, including minors, are being detained and warehoused and that this régime resembles that of, and in this case is harsher than, common (criminal) detention.6 We argue that the status of asylum seekers as ‘detained aliens’ is, in essence, a technique of control. Placing asylum seekers under the category of ‘detainees’ effectively puts them in the hands of the state, which has a ‘strong duty to care’ for persons under its responsibility. Consequently, force-​feeding is read as ‘giving care.’ Within this construction, the deprivation of freedom (being detained by the Dutch state) and violence (being subjected to non-​consented bodily intervention) are transformed into dutiful benevolence (being cared for by the Dutch state). It is worth noting that the consideration to force-​feed asylum seekers occurs at the same time that asylum seekers are dying at European Union’s borders under the watchful eyes of its surveillance systems, or committing suicide in EU detention centres under conditions of a lack of medical care. This distribution of care is carefully managed. Despite Dolmatov’s suicide and the reported ‘missteps’ of the Ministry of Justice epitomised by the ‘body-​cuffed’ deportation of Cheikh Bah and Issa Koulibaly, two emaciated Guineans after 70+ days of hunger strike, the Dutch state persists in the pursuit of a politics of isolation, incarceration and forceful deportation of undocumented migrants and asylum seekers. These actions have been object of critique and protest. In respect to force-​feeding, we call attention to the stance of physicians’ professional associations. The day after the State Secretary’s request to the State Council, the Royal Dutch Medical Association (KNMG) published an advice note:7 Physicians’ Federation KNMG strongly advises physicians not to cooperate with force-​feeding. Medical ethics does not give physicians any leeway for treatment by force of a competent patient who can understand the effects of his [sic] refusal of treatment. Thus, the consent of the patient is also required for the administration of food or fluid. This position, which is shared by the Dutch Human Rights Organization for Health Professionals Johannes Wier Foundation,8 was made known to the Minister of Foreign Affairs. It aligns with the position of peers elsewhere as regards force-​feeding in Guantánamo Bay. In 2006, The Lancet published a letter authored by UK and US physicians (and undersigned by 255 peers of several countries) stating that physicians who refuse to respect the prisoners’ informed decision to refuse treatment ‘should be held to account by their professional bodies’ and denounce the practise of screening health-​care staff ‘to ensure that they agree with the policy of force-​feeding before working in Guantánamo Bay.’9 In 2009, Leonard Rubenstein (Physicians for Human Rights) and George Annas (Global Lawyers and Physicians) issued a statement in the same reputable journal:10 The use of coercion, physical force, or physical restraints to force-​feed competent individuals on hunger strike has been condemned by the World Medical Association as a form of “inhuman and degrading treatment” that is prohibited according to Common Article 3.9. They indicated that, 2 years before physician-​assisted force-​feeding of individuals on hunger strike at the centre in Guantanamo Bay began, President Bush’s Bioethics Council had described the force-​feeding of competent prisoners on hunger strike with the use of restraints and a nasogastric tube as a form of torture. On 22 May 2013, in conformity with the US political establishment, which has ignored this position, the Dutch Council of State informed the Secretary that the state does have the option of force-​feeding detained asylum seekers. It is not our intention to examine the legality of the document issued by the Council of State; we are not equipped to do so.11 Still, we would like to call attention to some of its important implications. The short amount of time in which the document was produced, and the circumstances that gave rise to it, created the ideal conditions for the implementation of urgent or extraordinary measures — albeit within the framework of human rights and, in particular, according to European legislation and the Dutch Constitution. The main concern of the state, it seems, was to establish the lawfulness of force-​feeding detained asylum seekers. For the Council, when carried out according to ‘recognised medical standards,’ force-​feeding is ‘in principle not deemed inhuman or humiliating.’ The Council acknowledges that it may constitute a limitation of the detainee’s right to their private life (personal autonomy), and a violation of the prohibition of torture. However, the Council indicates that, following European legislation, force-​feeding may be performed by the state when exercising its duty to protect the life of those under its care. The document delves into the procedural requirements to force-​feeding with respect to ‘proportionality’, a requirement that may be ignored in cases of thirst-​strike, and ‘quality.’ It concludes that regarding the possible incompatibilities between the duty of the state and the prohibition of torture and inhumane and humiliating treatment and the right to one’s private life, the previous prevails. Force-​feeding is, thus, rendered acceptable, even when the asylum seeker refuses to undergo the procedure. Following the document, the procedure is set in motion according to the national legal guidelines, whereby the head of the penitentiary institution decides and a physician determines whether they will carry out force-​feeding. The Council does acknowledge the KNMG’s advice not to force-​feed in conformity with the guidelines adopted by the World Medical Association. However the state, relying on its Constitution and the legal framework provided by Europe, has effectively greenlit torture. It is only through a political sleight-​of-​hand, enforced detention and deportation quotas, which stretch the realm of ethics, that the state is permitted to force-​feed a detainee against their will. This constitutes effectively what Giorgio Agamben termed the ‘state of exception,’ whereby the fundamental rights of some persons are suspended. In Homo Sacer: Sovereign Power and Bare Life, Agamben points out that, In such a state of exception, subjection to experimentation can, like an expiation rite, either return the human body to life […] or definitively consign it to the death to which it already belongs. What concerns us most of all here, however, is that in the biopolitical horizon that characterizes modernity, the physician and the scientist move in the no-man’s-land into which at one point the sovereign alone could penetrate. (Agamben 1998, 159) The correlation between body experimentation in concentration camps, where the physician gained political power through state delegation, and force-​feeding in detention is not negligible. In this aberrant situation, it is the individual physician (effectively turned into civil servant) on behalf of the state that has the discretionary power of acting, freed from professional ethics, upon these subjects. The state will search incessantly for such a servant willing to force-​feed, until it finds them. It is critical to pause here to reflect on the current state of the Dutch democracy in its use of extraordinary provisions that annul the rights of some subjects. Analysis of the power of the state to decide who lives and dies has been fundamental to contemporary philosophical critique to the West. A paramount query in this regard is, who are assigned to the ‘category’ of subjects that have served, recurrently and consistently throughout history, as necropolitical objects of state power, which confer upon them ‘the status of living dead’ or of the non-​human (Mbembe, 2003). In Precarious Life. Powers of Mourning and Violence, Judith Butler points to the constitutive relationship between ‘who counts as a human’ and others: 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. (Butler 2006, 91) The subject turned into non-​person is then free-​game. Following Butler, it is those placed outside of the human realm who are rendered object of ‘indefinite detention’ in the ‘contemporary war prison;’ a house to ‘unliveable lives’ (Ibid 2006, xv). The alien, the Muslim, the black, the other, all of whom are already conceived as non-​human through what Walter Mignolo defines as ‘epistemic imperial racism,’ are marked for incarceration (Mignolo 2009). In State of Exception, Agamben calls attention to the Patriot Act and the following ‘military order’ issued by George Bush in 2001, whereby ‘non citizens’ or ‘aliens’ suspected of involvement in terrorist activities could be taken into custody and then detained indefinitely. What is new about President’s Bush order is that it radically erases any legal status of the individual, thus producing a legally unnameable and unclassifiable being … Neither prisoners nor persons accused, but simply “detainees,” they are the object of a pure de facto rule’. (Agamben 2005, 3) Agamben argues that the removal of the individual ‘from law and judicial oversight’ can only be compared to the legal situation of Jews in the Nazi Lager (Ibid, 4). However, there is actually an earlier genealogy of bare life, which is found in imperial colonialism. The experimentation with the life of certain human bodies was already an earlier practice in the suspended zone or limit space of the colonies. Mignolo outlines this heritage in Dispensable and Bare Lives — Coloniality and the Hidden Political/​Economic Agenda of Modernity: From the sixteenth century on, epistemic and ontological constructions of racism had two major devastating consequences: the economic and legal/​political dispensability of human lives. Dispensable lives were and are either assumed (naturalized “feelings”) or established by decree (laws, public policies). Two human communities that paid the price of economic and political devaluation of human lives were enslaved Africans from the sixteenth to the eighteenth century and German Jews in the twentieth century. (Mignolo 2009, 73 – 74) It is in this historical context that the actions of the Dutch state should be understood. The legal move to (un)name and classify detained asylum seekers emerges, then, as the afterlife of imperial colonialism. The invisibilisation of those relegated to the zone of the non-​being (after Fanon [2008]) is a fundamental aspect to (mass) incarceration. For the maintenance of the national myth of a human and humane society, the Netherlands must keep the non-​being out of sight. The Dutch state is well aware that the stakes are high regarding what is admitted to or excluded from the public sphere. Asylum seekers on hunger strike are protesting against their physical and metaphorical exclusion from the Dutch public sphere. Their deaths would catapult them into this very anaemic space, however briefly, and disturb the carefully constructed and policed human face of the Dutch nation. Hunger strikes ‘call for’ the application of exceptional rules, for they qualify as acts of resistance to the power of the state. The tension, on the one hand, between an ethics of care that doesn’t decry death, as is the case with euthanasia in the Netherlands and, on the other, ‘death as protest’ indicates that for asylum-​seekers another ethics (or lack thereof) applies. While voluntary death as a means to end suffering is allowed, death as a form of protest is not. Disciplinary power and biopower shape a certain kind of subject and a specific embodied response to power. In the zone of the non-​being one’s body is the last, if not only, means to protest oppression, whereby a ‘slow death’ stands for the body’s radicalisation. The Dutch state does not recognise hunger strike as a valid and deliberate political act, as a refusal to live under intolerable conditions, or as a form of revolutionary suicide that ‘strategically blurs the difference between risking one’s life in order to confront oppressive forces and resolutely taking one’s life in order to end unbearable suffering.’ (Ryan 2000, 391) Under these circumstances (the Dutch state forces asylum seekers to subsist in a ‘space of death’), force-​feeding represents a prolonging of suffering (or a staying of death). Force-​feeding suggests a desire for their continued existence — however, outside of the Netherlands

#### The state of exception is a faux term which is historically ungrounded, ignores other instances of state repression, and doesn't even come close to describing the operation of American style politics today - A neoliberal politics which concerns itself with rule law of law and sanctity of constitutionality : Turns the aff.

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The limits of Schmitt’s paradigm are made especially clear in Agamben’s work. First—regardless of the few notes on Lincoln and Franklin D. Roosevelt—his claims about the state of exception are not historically grounded within an American political context—or, for that matter, in any real history at all. As Bull has pointed out, much of his argument is “frustratingly dependent on vague analogies.” There is a somewhat promiscuous association between Roman law (in homo sacer, a figure who never actually existed), Nazi Germany, and contemporary America (Mesnard 2004: 141). These fundamentally distinct juridico-historical contexts are presumed to make a generalized case for exception because aspects of their excesses look similar to one another. This is metaphor, not history. Hence, Philippe Mesnard (2004): “It is when his discourse is confronted with an empirical reality that Agamben’s thought starts to become problematic” (142), and Bull’s observation that, in the past, most emergencies have been declared to handle such relatively mundane events as labor strikes.4 The facts of history notwithstanding, Agamben elides such mundanities with the most spectacular of instances, regardless of the specificities of difference. In the timeless vacuum of homo sacer, the eternal truth of sovereignty is a brutal seizure of the political life of the populace. Indeed, it is for this reason, among others, that Agamben’s work has been accused of being principally literary, an assortment of meandering significations (Mesnard 2004: 143). More important, however, is the question of whether exception is necessary for the exercise of repressive force. Bull (2004: 5) observes that “it remains wholly unclear why . . . Agamben thinks extra-judicial state violence differs fundamentally from judicial state violence, on the one hand, and other forms of extrajudicial violence, on the other.” Why does the presence of state violence alone testify to a state of exception? Walter Benjamin, whose essay collection Agamben edited for the publisher Einaudi, would surely point out that there is tyranny enough under the law. Its suspension is hardly required for repressive acts to occur, hence the revelation, post-Abu Ghraib, that the famous torture techniques were imported, at least in part, from the American prison system. What seemed grotesque and exceptional was actually standard operating procedure, common practice, and de facto legal—all of which raises some profound concerns about the usefulness of this theory. Given the number of inmates on death row in Texas, why should the state of exception be relevant? Agamben might wish to believe that capital punishment marks the institutionalization of a state of exception, but that does not really make the case for its exceptionality one way or the other; in fact, Benjamin (1978: 286) argued that the violence of the death penalty was a guarantor of the originary force of the law, sui generis. There are further questions about how well the state of exception actually fits the state of the Bush administration. There is little doubt that the neocons would choose to exercise dictatorial (or at least oligarchic) power, given the opportunity. But putting evil intent aside, wherein lies the reality? According to Schmitt, the sovereign achieves absolute power in the suspension of both legality and legitimacy. The law is, by definition, voided by the authority that would save it and restore its power. The Patriot Act has certainly lent the executive branch greatly expanded powers, but can we say that the constitution has been abnegated in an act of “political theology”? Precisely what is interesting in the endless memos that have circulated among the president, Secretary of Defense Donald Rumsfeld, Vice President Dick Cheney, and Attorney General Alberto Gonzales5 is that they express a need for legal tactics to defend such ideas as the “enemy combatant” and detention without trial, in the face of eventual challenge from the judiciary. The arguments may seem arrogant or unconvincing—Vaughan Lowe, a professor of international law at Oxford University, has commented that Gonzales’s legal reasoning was what he would expect from a “below average student . . . neither authoritative nor acceptable” (Rose 2004: 94)—but they are, nonetheless, arguments intended to defend executive action. And for good reason: the powers of the court have not been suspended, and the White House is not acting with legal impunity. The Supreme Court in its recent ruling in Rasul v. Bush (2004) has concluded that detention without trial is unconstitutional and that a writ of habeas corpus is, in fact, guaranteed. Moreover, on June 29, 2006, the Supreme Court ruled in Hamdan v. Rumsfeld that the Yemeni could not be tried before special “military tribunals,” as the latter were in violation of the Geneva Conventions.6 The judiciary has decided, albeit late, that what happens in Cuba is “juridicable” and has found against the executive. Also interesting here, for the question of exception, is that the Bush administration has felt the need to legitimize its actions in the court of public opinion. However arrogant these so-called vulcans,7 they have not been above the attempt to create legality through argument rather than fiat. A key assumption of arguments linking exceptionalism to Guantánamo—and, I would add, something of a sleight-of-hand—is that the “neoliberalism” of the Bush administration creates an attraction to dictatorial government similar to “liberal” Weimar. A “crisis of decisionism” would explain an odd contradiction of the contemporary American Far Right: the emphasis on laissez-faire alongside the abrogation of established liberties. It would make sense of the now-familiar (and rather Orwellian) dictum that “in order to preserve our liberties we must make sacrifices.” But is Schmitt’s critique the best model for explaining this rightward drift? Putting aside the immediate fact that the Bush administration may also be accurately described as “neoconservative”—wherein authoritarianism might as easily spring from deeply theocratic leanings as from a “crisis of decision”—it is also the case that neoliberalism is a worldview defined by a heavy legalism, contractualism, and constitutionalism. Indeed, its tendency is to pursue war through explicitly lawful and moral means, rather than pure executive decree. I will argue, below, that the Bush doctrine of warfare remains hamstrung between these tendencies: a will to power, on the one hand, and an emphasis on legality, on the other. It is one of the discursive contradictions that, as we shall see, defines daily life at Camp Delta. Most problematic, perhaps, is the fact that Agamben’s state of exception is a nonplace. Fundamentally ageographical, it exists principally as a one-dimensional abstraction of juridical logic—which is peculiar, because it is employed to describe an intensely spatiotemporal practice: the creation of zones that actively attempt to “capture” or territorialize a diffuse and labile adversary, a space in which illegalities (and not illegalities rendered legal through pure sovereignty) are enacted in an almost occult attempt to stuff the djinn of radical Islam back into the bottle. This is where we are made aware of the limits of philosophy in describing an essentially geopolitical problem. The cogito does not explain Guantánamo and its corresponding political structures very well. The abstracted, ahistorical format of this work—maximum explanatory potential in a minimum number of pages—closes off discourse about the specifics of these institutions within the circle of a facile, if evocative, explanation. That is, it shuts down at precisely the point that a study of political space really ought to contribute. Whatever else they may appear to be, Guantánamo and the war on terror are also about territory, first and foremost. What is at stake here, simply put, is the understanding of a central issue facing contemporary political thought, in light of recent global occurrences: how it is that authoritarian tendencies are possible within liberal democracy, and how we might understand the means by which unchecked power can be enacted. Moreover, analysis of Camp Delta can help to elucidate somewhat the precise nature of power abuses under the law. There are questions of means and methods, certainly— but there are also those of practice and of material life. The daily experience of this power, the absurdities of its intentions and habits, does much to explain the contradictions of the so-called Terror War and of the broader, intransigent politicogeographical problems suggested by the prospect of extranational violence. It is to these that we now turn.

### Kritik

This is the biggest impact because it makes other impact calculous literally impossible to articulate in that it homogenizes all possible suffering to the recesses of memory.

Bond 11 - Masters in Cultural Memory (http://journals.cambridge.org/action/displayAbstract?fromPage=online&aid=8432677, , Compromised Critique: A Meta-critical Analysis

of American Studies after 9/11, Lucy, Journal of American Studies / Volume 45 / Special Issue 04 / November 2011, pp 733 - 756

DOI: 10.1017/S0021875811000934, Published online: 15 November 2011)

Cathy Caruth deﬁnes trauma as a pathology consisting ‘‘ solely in the structure of its experience or reception,’’ arising from an event that ‘‘is not assimilated or experienced fully at the time, but only belatedly, in its repeated possession of the one who experiences it.’’34 Trauma, that is, testiﬁes to the absence of an event from memory. The traumatic happening can be experienced only vicariously, in the form of ﬂashbacks, sensory impressions, or dreams. Whilst ever-present, it carries with it a form of emptiness – a void in understanding, a refusal of linguistic embodiment. In its persistent yet intangible return, ‘‘the trauma thus seems to evoke the diﬃcult truth of a history that is constituted by the very incomprehensibility of its occurrence.’’35 This insistence that history be viewed as a continuum of traumatic experience is perhaps the most contentious aspect of Caruth’s writing. Arguing that the past becomes traumatic by virtue of its essential inexpressibility, Caruth asserts that for history ‘‘to be a history of trauma means that it is referential precisely to the extent that it is not fully perceived as it occurs.’’36 Trauma, by this account, arises not from a particular tragedy or disaster, but as an inherent structural consequence of the impossibility of accurately representing or remembering any given event. As her various critics have suggested,37 in highlighting the allegedly traumatic character of all renditions of history, Caruth has ‘‘transformed the experience of trauma into a basic anthropological condition,’’38 creating ‘‘ a misleading symbolic equivalency between the allegedly traumatic component of all human communication and the concrete suﬀering of victims of physical and mental trauma.’’39 Combined with Caruth’s conﬂation of structural and historical traumata is the tendency of contemporary culture (epitomized by television confessionals and talk shows) to attribute victim status to everyone. Whilst there needs to be careful diﬀerentiation between the theoretical domain of trauma studies and the overarching culture of trauma, the two are integrally related. Indeed, Susannah Radstone argues that the rise of trauma studies in the academy was at least partially responsible for the growth of the phenomenon that Roger Luckhurst terms ‘‘traumaculture,’’ testifying to the ‘‘organizing power of trauma’’ in the 1990s.40 Radstone’s comments identify the origins of the transference of traumatic narratives between the academy and popular culture that would be exacerbated after 9/11,41 associating the growth of traumaculture with ‘‘the rise of victim politics, the recourse to personal narratives of traumatization and the personalization of politics, if not the rise of memory and trauma studies.’’42 Lauren Berlant believes that, in America, this privileging of trauma has created a culture of collective victimhood in which to be traumatized is to be valued. She argues that ‘‘the public rhetoric of citizen trauma has become so pervasive and competitive in the United States that it obscures basic diﬀerences among modes of identity, hierarchy, and violence.’’43 This homogenization of suﬀering has political (or, rather, depoliticizing) consequences. During the early 1990s, Berlant noted in America a ‘‘ rerouting [of] the critical energies of the emerging political sphere into the sentimental spaces of an amorphous opinion culture, characterized by strong patriotic identiﬁcation mixed with feelings of practical political powerlessness.’’44 Berlant contends that as the public sphere became personalized with the testimonies of innumerable ‘‘traumatized’’ individuals, previously personal matters were mooted as the concern of the state, creating ‘‘ a traumatized core national identity’’ that required political healing.45 This nationalization of trauma reached its zenith after 9/11, and the extension of trauma beyond the realm of those immediately impacted by the attacks can be widely seen in critical and psychoanalytic discourse. Marnie Brow and Roxanne Cohen Silver (the principal investigator of a three-year national study of psychological responses to the attacks) assert, for example that on 9/11 Americans ‘‘experienced a tragedy unprecedented in its scope and impact on both individual lives and the national psyche,’’46whilst Ronnie Bulman and Ramila Usoof-Thowfeek, from the Department of Psychology at the University of Massachusetts, suggest, ‘‘Those at the World Trade Center and the Pentagon on 9/11, and those who lost loved ones that day, experienced the depths of individual trauma. Yet 9/11 was also experienced by the nation as a whole.’’47 Similarly, Skitka et al., also academics working in the ﬁeld of psychology, argue that the ‘‘ attacks on the World Trade Center and Pentagon had both immediate and long-term eﬀects on the American psyche.’’48 This problematic notion of a collective ‘‘American psyche’’ extends conditions pertaining to an individual pathology to a national level. Given the homogenization implicit in such a formulation, I cannot help but subscribe to Susannah Radstone’s assessment that such collectivization of trauma is misguided, and has the unfortunate eﬀect of ‘‘ hardening into literality what might better be regarded as a series of compelling metaphors – the ‘traumatization’ of a nation, for instance, or the ‘healing’ of a culture.’’49 Theorists and practitioners espousing such ‘‘metaphors’’ tend to draw parallels between the loss of security felt by individuals in the aftermath of the attacks and the damage to citizens’ perception of the United States’ invulnerability, suggesting a direct correspondence between individual identity and national narratives.50 What such approaches fail to note, however, is the distinction between wholesale national traumatization and the geographic dispersal of traumatized individuals across the space of the nation; that is to say, the diﬀerence between universal and discrete manifestations of trauma. Furthermore, as LoCicero, Brown, and Sinclair have suggested in their review of ‘‘Fear across America in a Post-9/11 World,’’ there are ‘‘methodological weaknesses’’ in studies ‘‘ of the psychological impact of the terrorist attacks of 9/11,’’ which include ‘‘the tendency of researchers to focus on PTSD’’ at the expense of other psychological reactions.51 In light of the fact that ‘‘if diagnosable PTSD is the only yardstick with which one measures eﬀects, the eﬀects for most were not, overall, of long duration,’’52 LoCicero, Brown, and Sinclair argue that, ‘‘while understandable,’’ this focus on PTSD at the expense of other modes of psychical response ‘‘unnecessarily limited the types of psychological eﬀects examined.’’53 These ﬁndings suggest a signiﬁcant oversimpliﬁcation of the complex dynamics of collective and individual modes of response to the attacks. Whilst the New York Times described 9/11 as a ‘‘trauma that rippled outward,’’ I contend that it was the not the trauma itself but the size of the community to whom the label was extended that was progressively expanded, in ways that suggest that greater acknowledgment is needed of the role that both psychoanalytic studies and critical theory play in the constitution of traumaculture.54 Although E. Ann Kaplan concedes that the ‘‘experience of 9/11\_ demonstrates the diﬃculties of generalizing about trauma,’’55 she, like other theorists, does not acknowledge the extent to which trauma itself has become generalized after 9/11. Kaplan diﬀerentiates between ‘‘classic trauma’’ (e.g. ﬁrsthand experience of the attacks) and ‘‘trauma to include suﬀering terror’’ (a kind of secondary or ‘‘ post’’-trauma involving vicarious experience of an event).56 Whilst the impulse to distinguish between diﬀerent traumatic states seems an adept and ethical move, the distinction between pathologically traumatic and intensely disturbing experience needs greater development. As evidence that New Yorkers in their entirety were traumatized by 9/11, Kaplan oﬀers the following justiﬁcation: ‘‘Everyone was in shock: people did not laugh out loud in the streets or in [Union] Square; voices were muted. People’s expressions were somber.’’57 I would not query the accuracy of her description of the city’s residents in the aftermath of the attacks; however, I wonder whether displaying ‘‘ somber’’ expressions and not laughing out loud could – indeed, should – be said to be concomitant with traumatization.

### 1nr

Constraints make Presidents more assertive

Barilleaux and Kelley 2010 [Ryan J. , Professor of Political Science at Miami, OH; and Christopher S. , Lecturer (Political Science) at Miami, OH, The Unitary Executive and the Modern Presidency, Texas A&M Press, p. 225-226, 2010)

Congress, following the logic of Daniel Patrick Moynihan's "Iron Law of Emulation" (which holds that what one branch of government does will be emulated by another), responded to the enlargement of the presidency and its powers by undertaking a number of actions in the 1970s to enable itself to be a more active and assertive player in the making of national policy.11 It gave itself a large professional staff, reformed its budget process, developed tools for more oversight of the executive, passed legislation to gain more information about the conduct of foreign policy and influence over it (the Case-Zablocki Act, the War Powers Resolution, and other laws), and at times acted aggressively to challenge presidential policy (in the mid-1970s and again in the late 1990s and after the 2006 midterm elections). In less than forty years, Congress has moved toward impeaching one president (Nixon, whom it ultimately drove from office), legislated an end to the Vietnam War, prohibited American intervention in the civil war in Angola (1975), impeached another president (Clinton), shut down the government in a duel with the White House over the federal budget (1995), investigated the Iran-Contra affair and other incidents, passed a bill to require a timetable for withdrawing U.S. forces from Iraq (2007), tried several times to bring the president to heel on the use of force, and balked when the Bush administration tried to have its first financial industry bailout plan passed summarily in 2008. These and other incidents have made the legislature a full player in the separated system of American government, but they have also stimulated presidents to seek greater autonomy from legislative constraints. The unilateral presidency is the result of this stimulation. Barack Obama follows in this line of presidents seeking to accomplish something in office and feeling the urgency of their task. In his victory speech on election night in 2008, he told the assembled crowd that "this is our time—to put our people back to work and open doors of opportunity for our kids; to restore prosperity and promote the cause of peace; to reclaim the American Dream and reaffirm that fundamental truth—that out of many, we are one; that while we breathe, we hope, and where we are met with cynicism, and doubt, and those who tell us that we can't, we will respond with that timeless creed that sums up the spirit of a people: Yes We Can."12 There is no reason to think that he or any subsequent president will be passive in the conduct of office. Congressional responses to executive unilateralism will be too late *and too strong* andwill *in turn* stimulate a new round of executive assertiveness*.* In the 1960s and 1970s Congress bridled at the growth of presidential power but acquiesced to it until legislators finally decided that they had seen enough. Beginning in the mid-1970s, Congress reacted with a spate of president-curbing legislation (the War Powers Resolution, the CaseZablocki Act, the Budget and Impoundment Act), the near-impeachment of Richard Nixon, a legislated end to the Vietnam War, an investigation of the CIA, and other actions to restrict presidential autonomy. The consequence, to some extent described in this volume, was the rise of executive unilateralism as a way to circumvent Congress.

**Obama will bypass congressional limits**

**Savage 12**

(Charlie Savage, “Shift on Executive Power Lets Obama Bypass Rivals”, 4/22/2012, <http://www.nytimes.com/2012/04/23/us/politics/shift-on-executive-powers-let-obama-bypass-congress.html?pagewanted=all>)

WASHINGTON — One Saturday last fall, President Obama interrupted a White House strategy meeting to raise an issue not on the agenda. He declared, aides recalled, that the administration needed to more aggressively use executive power to govern in the face of Congressional obstructionism. “We had been attempting to highlight the inability of Congress to do anything,” recalled William M. Daley, who was the White House chief of staff at the time. “The president expressed frustration, saying we have got to scour everything and push the envelope in finding things we can do on our own.”

For Mr. Obama, that meeting was a turning point. As a senator and presidential candidate, he had criticized George W. Bush for flouting the role of Congress. And during his first two years in the White House, when Democrats controlled Congress, Mr. Obama largely worked through the legislative process to achieve his domestic policy goals.

But increasingly in recent months, the administration has been seeking ways to act without Congress. Branding its unilateral efforts “We Can’t Wait,” a slogan that aides said Mr. Obama coined at that strategy meeting, the White House has rolled out dozens of new policies — on creating jobs for veterans, preventing drug shortages, raising fuel economy standards, curbing domestic violence and more.

Each time, Mr. Obama has emphasized the fact that he is bypassing lawmakers. When he announced a cut in refinancing fees for federally insured mortgages last month, for example, he said: “If Congress refuses to act, I’ve said that I’ll continue to do everything in my power to act without them.”