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#### Silence on the human exploitative gaze towards non-humans ensures that anthropocentrism continues

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We come to critical pedagogy with a background in environmental thought and education. Of primary concern and interest to us are relationships among humans and the “more-than-human world” (Abram, 1996), the ways in which those relationships are constituted and prescribed in mo- dern industrial society, and the implications and consequences of those constructs. As a number of scholars and nature advocates have argued, the many manifestations of the current environmental crisis (e.g., species extinction, toxic contamination, ozone depletion, topsoil depletion, climate change, acid rain, deforestation) reflect predominant Western concepts of nature, nature cast as mindless matter, a mere resource to be exploited for human gain (Berman, 1981; Evernden, 1985; Merchant, 1980). An ability to respond adequately to the situation therefore rests, at least in part, on a willingness to critique prevailing discourses about nature and to consider alternative representations (Cronon, 1996; Evernden, 1992; Hayles, 1995). To this end, poststructuralist analysis has been and will continue to be invaluable.¶ It would be an all-too-common mistake to construe the task at hand as one of interest only to environmentalists. We believe, rather, that dis- rupting the social scripts that structure and legitimize the human dom- ination of nonhuman nature is fundamental not only to dealing with environmental issues, but also to examining and challenging oppressive social arrangements. The exploitation of nature is not separate from the exploitation of human groups. Ecofeminists and activists for environ- mental justice have shown that forms of domination are often intimately connected and mutually reinforcing (Bullard, 1993; Gaard, 1997; Lahar, 1993; Sturgeon, 1997). Thus, if critical educators wish to resist various oppressions, part of their project must entail calling into question, among other things, the instrumental exploitive gaze through which we humans distance ourselves from the rest of nature (Carlson, 1995).¶ For this reason, the various movements against oppression need to be aware of and supportive of each other. In critical pedagogy, however, the exploration of questions of race, gender, class, and sexuality has proceeded so far with little acknowledgement of the systemic links between human oppressions and the domination of nature. The more-than-human world and human relationships to it have been ignored, as if the suffering and exploitation of other beings and the global ecological crisis were somehow irrelevant. Despite the call for attention to voices historically absent from traditional canons and narratives (Sadovnik, 1995, p. 316), nonhuman beings are shrouded in silence. This silence characterizes even the work of writers who call for a rethinking of all culturally positioned essentialisms.¶ Like other educators influenced by poststructuralism, we agree that there is a need to scrutinize the language we use, the meanings we deploy, and the epistemological frameworks of past eras (Luke & Luke, 1995, p. 378). To treat social categories as stable and unchanging is to reproduce the prevailing relations of power (Britzman et al., 1991, p. 89). What would it mean, then, for critical pedagogy to extend this investigation and critique to include taken-for-granted understandings of “human,” “animal,” and “nature”?¶ This question is difficult to raise precisely because these understandings are taken for granted. The anthropocentric bias in critical pedagogy man- ifests itself in silence and in the asides of texts. Since it is not a topic of discussion, it can be difficult to situate a critique of it. Following feminist analyses, we find that examples of anthropocentrism, like examples of gender symbolization, occur “in those places where speakers reveal the assumptions they think they do not need to defend, beliefs they expect to share with their audiences” (Harding, 1986, p. 112).¶ Take, for example, Freire’s (1990) statements about the differences between “Man” and animals. To set up his discussion of praxis and the importance of “naming” the world, he outlines what he assumes to be shared, commonsensical beliefs about humans and other animals. He defines the boundaries of human membership according to a sharp, hier- archical dichotomy that establishes human superiority. Humans alone, he reminds us, are aware and self-conscious beings who can act to fulfill the objectives they set for themselves. Humans alone are able to infuse the world with their creative presence, to overcome situations that limit them, and thus to demonstrate a “decisive attitude towards the world” (p. 90).¶ Freire (1990, pp. 87–91) represents other animals in terms of their lack of such traits. They are doomed to passively accept the given, their lives “totally determined” because their decisions belong not to themselves but to their species. Thus whereas humans inhabit a “world” which they create and transform and from which they can separate themselves, for animals there is only habitat, a mere physical space to which they are “organically bound.”¶ To accept Freire’s assumptions is to believe that humans are animals only in a nominal sense. We are different not in degree but in kind, and though we might recognize that other animals have distinct qualities, we as humans are somehow more unique. We have the edge over other crea- tures because we are able to rise above monotonous, species-determined biological existence. Change in the service of human freedom is seen to be our primary agenda. Humans are thus cast as active agents whose very essence is to transform the world – as if somehow acceptance, appreciation, wonder, and reverence were beyond the pale.¶ This discursive frame of reference is characteristic of critical pedagogy. The human/animal opposition upon which it rests is taken for granted, its cultural and historical specificity not acknowledged. And therein lies the problem. Like other social constructions, this one derives its persuasiveness from its “seeming facticity and from the deep investments individuals and communities have in setting themselves off from others” (Britzman et al., 1991, p. 91). This becomes the normal way of seeing the world, and like other discourses of normalcy, it limits possibilities of taking up and con- fronting inequities (see Britzman, 1995). The primacy of the human enter- prise is simply not questioned.¶ Precisely how an anthropocentric pedagogy might exacerbate the en- vironmental crisis has not received much consideration in the literature of critical pedagogy, especially in North America. Although there may be passing reference to planetary destruction, there is seldom mention of the relationship between education and the domination of nature, let alone any sustained exploration of the links between the domination of nature and other social injustices. Concerns about the nonhuman are relegated to environmental education. And since environmental education, in turn, remains peripheral to the core curriculum (A. Gough, 1997; Russell, Bell, & Fawcett, 2000), anthropocentrism passes unchallenged.1¶ p. 190-192

#### The topic is demonstrative of this – their attempt to bind the language of law with the language of war masks the species war at the foundation of the law of war. Their framing of what war is allows for all forms of suffering to continue

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“species war: law, violence, and animals”, 353-359

In everyday speech, in the words of the media, politicians, protestors, soldiers and dissidents, the language of war is linked to and intimately bound up with the language of law. That a war might be said to be legal or illegal, just or unjust, or that an act might be called “war” rather than terror or crime, displays aspects of reference, connection, and constitution in which the social meaning of the concepts we use to talk about and understand war and law are organised in particular ways. The manner in which specific terms (i.e. war, terror, murder, slaughter, and genocide) are defined and their meanings ordered has powerful and bloody consequences for those who feel the force and brunt of these words in the realm of human action. In this paper I argue that the juridical language of war contains a hidden foundation – *species war*. That is, at the foundation of the *Law of war* resides a species war carried out by humans against non-human animals. At first glance such a claim may sound like it has little to do with law and war. In contemporary public debates the “laws of war” are typically understood as referring to the rules set out by the conventions and customs that define the legality of a state’s right to go to war under international law. However, such a perspective is only a narrow and limited view of what constitutes the *Law of war* and of the relationship between law and war more generally. Here the “Law” of the “Law of war” needs to be understood as involving something more than the limited sense of positive law. The Law of war denotes a broader category that includes differing historical senses of positive law as well as various ethical conceptions of justice, right and rights. This distinction is clearer in German than it is in English whereby the term *Recht* denotes a broader ethical and juristic category than that of *Gesetz* which refers more closely to positive or black letter laws.1 To focus upon the broader category of the Law of war is to put specific (positive law) formulations of the laws of war into a historical, conceptual context. The Law of war contains at its heart arguments about and mechanisms for determining what constitutes *legitimate violence*. The question of what constitutes legitimate violence lies at the centre of the relationship between war and law, and, the specific historical laws of war are merely different juridical ways of setting-out (positing) a particular answer to this question. In this respect the Law of war (and thus its particular laws of war) involves a practice of normative thinking and rule making concerned with determining answers to such questions as: what types of coercion, violence and killing may be included within the definition of “war,” who may legitimately use coercion, violence and killing, and for what reasons, under what circumstances and to what extent may particular actors use coercion, violence and killing understood as war? When we consider the relationship between war and law in this broader sense then it is not unreasonable to entertain the suggestion that at the foundation of the Law of war resides species war. At present, the Law of war is dominated by two cultural-conceptual formulations or discourses. The Westphalian system of interstate relations and the system of international human rights law are held to be modern *foundations* of the Law of war. In the West, most people’s conceptions of what constitutes “war” and of what constitutes a “legitimate” act of war are shaped by these two historical traditions. That is to say, these traditions have ordered how we understand the legitimate use of violence.2 These discourses, however, have been heavily criticized. By building upon a particular line of criticism I develop my argument for the foundational significance of species war. Two critiques of sovereignty and humanitarian law are of particular interest: Michel Foucault’s notion of “race war” and Carl Schmitt’s notion of “friend and enemy.” Foucault in *Society Must Be Defended* set out a particular critique of the Westphalian juridical conception of state sovereignty and state power.3 Within the Westphalian juridical conception, it is commonly argued that sovereign power and legitimacy are grounded upon the ability of an institution to bring an end to internal civil war and create a sphere of domestic peace. Against this Foucault claimed that war is never brought to an end within the domestic sphere, rather, it continues and develops in the form of “race war.” Connected to his account of bio-power, Foucault suggests a historical discourse of constant and perpetual race war that underlies legal and political institutions within modernity.4 In *The Concept of the Political*, Carl Schmitt offered a critique of the liberal conception of the state grounded upon the notion of the “social contract” and criticized legal and political conceptions of the state in which legitimacy (and the legitimacy of war) was seen to be grounded upon the notion of “humanity.”5 For Schmitt the juridical notion of the state (and international human rights law) presupposes and continually re-instates through violence the distinction and relation between “friend and enemy.” Schmitt claimed that the political emerges from the threatening and warlike struggle between friends and enemies and that all political and legal institutions, and the decisions made therein, are built upon and are guided by this distinction.6 In relation to the issue of war/law these two insights can be taken further. I think Foucault’s notion of race war can be developed by putting at its heart the differing historical and genealogical relationships between human and non-human animals. Thus, beyond race war what should be considered as a primary category within legal and political theory is that of *species war*. Further, the fundamental political distinction is not as Schmitt would have it, that of friends and enemies, but rather, the violent conflict between human and non-human animals. Race war is an extension of an earlier form of war, species war. The friend-enemy distinction is an extension of a more primary distinction between human and non-human animals. In this respect, what can be seen to lay at the foundation of the Law of war is not the Westphalian notion of civil peace, or the notion of human rights. Neither race war nor the friend-enemy distinction resides at the bottom of the Law of war. Rather, what sits at the foundation of the Law of war is a discourse of species war that over time has become so naturalised within Western legal and political theory that we have almost forgotten about it. Although species war remains largely hidden because it is not seen as war or even violence at all it continues to affect the ways in which juridical mechanisms order the legitimacy of violence. While species war may not be a Western monopoly, in this account I will only examine a Western variant. This variant, however, is one that may well have been imposed upon the rest of the world through colonization and globalization. In what will follow I offer a sketch of species war and show how the juridical mechanisms for determining what constitutes legitimate violence fall back upon the hidden foundation of species war. I try to do this by showing that the various modern juridical mechanisms for determining what counts as legitimate violence are dependent upon a practice of judging the value of forms of life. I argue that contemporary claims about the legitimacy of war are based upon judgements about differential life-value and that these judgements are an extension of an original practice in which the legitimacy of killing is grounded upon the valuation of the human above the non-human. Further, by giving an overview of the ways in which our understanding of the legitimacy of war has changed, I attempt to show how the notion of species war has been continually excluded from the Law of war and of how contemporary historical movements might open a space for its possible re-inclusion. In this sense, the argument I develop here about species war offers a particular way of reflecting upon the nature of *law* more generally. In a Western juridical tradition, two functions of law are often thought to be: the establishment of order (in the context of the preservation of life, or survival); and, the realization of justice (a thick conception of the “good”). Reflecting upon these in light of the notion of species war helps us to consider that at the heart of both of these functions of law resides a practice of making judgements about the life-value of particular “objects.” These objects are, amongst other things: human individuals, groups of humans, non-human animals, plants, transcendent entities and ideas (the “state,” “community,” etc.). For the law, the practice of making judgements about the relative lifevalue of objects is intimately bound-up with the making of decisions about what objects can be killed. Within our Western conception of the law it is difficult to separate the moment of judgement over life-value from the decision over what constitutes “legitimate violence.” Species war sits within this blurred middle-ground between judgement and decision – it points to a moment at the heart of the law where distinctions of value and acts of violence operate as fundamental to the founding or positing of law. The primary violence of species war then takes place not as something after the establishment of a regime of law (i.e., after the establishment of the city, the state, or international law). Rather, the violence of species war occurs at the beginning of law, at its moment of foundation, as a generator, as a motor.7In J.M. Coetzee’s *The Lives of Animals* 8 the protagonist Elizabeth Costello draws a comparison between the everyday slaughter of non-human animals and the genocide of the Jews of Europe during the twentieth century. “In addressing you on the subject of animals,” she continues, “I will pay you the honour of skipping a recital of the horrors of their lives and deaths. Though I have no reason to believe that you have at the forefront of your minds what is being done to animals at this moment in production facilities (I hesitate to call them farms any longer), in abattoirs, in trawlers, in laboratories, all over the world, I will take it that you concede me the rhetorical power to evoke these horrors and bring them home to you with adequate force, and leave it at that, reminding you only that the horrors I here omit are nevertheless at the center of this lecture.”9 A little while later she states: “Let me say it openly: we are surrounded by an enterprise of degradation, cruelty, and killing which rivals anything that the Third Reich was capable of, indeed dwarfs it, in that ours is an enterprise without end, self-regenerating, bringing rabbits, rats, poultry, livestock ceaselessly into the world for the purpose of killing them.” “And to split hairs, to claim that there is no comparison, that Treblinka was so to speak a metaphysical enterprise dedicated to nothing but death and annihilation while the meat industry is ultimately devoted to life (once its victims are dead, after all, it does not burn them to ash or bury them but on the contrary cuts them up and refrigerates and packs them so that they can be consumed in the comfort of our own homes) is as little consolation to those victims as it would have been – pardon the tastelessness of the following – to ask the dead of Treblinka to excuse their killers because their body fat was needed to make soap and their hair to stuff mattresses with.”10 Similar comparisons have been made before.11 Yet, when most of us think about the term “war” very seldom do we bother to think about non-human animals. The term war commonly evokes images of states, armies, grand weapons, battle lines, tactical stand-offs, and maybe even sometimes guerrilla or partisan violence. Surely the keeping of cattle behind barbed wire fences and butchering them in abattoirs does not count as war? Surely not? Why not? What can be seen to be at stake within Elizabeth Costello’s act of posing the modern project of highly efficient breeding and factory slaughtering of non-human animals beside the Holocaust is a concern with the way in which we order or arrange conceptually and socially the legitimacy of violence and killing. In a “Western” philosophical tradition stretching at least from Augustine and Aquinas, through to Descartes and Kant, the ordering of the relationship between violence and legitimacy is such that, predominantly, non-human animals are considered to be without souls, without reason and without a *value* that is typically ascribed to humans. For example, for Augustine, animals, together with plants, are exempted from the religious injunction “Thou shalt not kill.” When considering the question of what forms of killing and violence are legitimate, Augustine placed the killing of non-human animals well inside the framework of religious and moral legitimacy.12

#### Anthropocentrism sets up the binary to cause extinction

**Trenell,** 2006

[Paul, September, Department of International Politics, University of Wales, “The (Im)possibility of ‘Environmental Security’”]

It is a relatively recent realisation that human activity over the past two centuries has taken a detrimental toll on the natural environment. The first tentative contentions that the economic modes of production and consumption established by the industrial revolution were exerting a negative impact on the ecosystems which sustain human life were made in the mid twentieth century (Revelle & Suess, 1957). Since then it has become widely acknowledged that human activity is altering the planet‟s climatic make-up. As the science behind environmental degradation grows ever more certain, the security impacts of these developments are constantly unfolding. **Among the ways in which environmental degradation poses direct risks to continued human survival are starvation stemming from reduced crop productivity, disease stemming from increasingly conducive conditions for air and vector borne diseases, and good old fashioned physical destruction stemming from sea level rises and increased storm frequency and intensity**4. Given that “nature is the precondition for everything else” (Dobson, 2006: 175), its ongoing destruction is an extremely disconcerting process, and one that takes on an even more alarming character when it is noted that “the developing world is only just undergoing its industrial revolution” (Brown: 1995: 7).

Before tracing the response to the emergence of environmental hazards it is necessary to say a word about the causes of environmental degradation. By this I refer not to the scientific explanations of the process, but the deeply rooted societal and philosophical developments that have allowed the process to continue. As Simon Dalby has detailed, **environmental threats “are the result of the kind of society that the current global political economy produces**. **Industrial activity, agricultural monocultures, and rampant individual consumption of “disposable items**” (all of which are efforts to enhance some forms of human welfare through domination and control of facets of nature) **produce other forms of insecurity**” (1992a: 113). **A large hand in the development of contemporary environmental problems must be attributed to the enlightenment faith in human ability to know and conquer all. In the quest for superiority and security, an erroneous division between humanity and nature emerged whereby the natural world came to be seen as something to be tamed and conquered rather than something to be respected** (Adorno & Horkheimer, 1973). **Over time, this false dichotomy has become accepted as given, and as a result humankind has lost sight of its own dependence on nature. It is this separation which allows the continued abuse of planetary resources with such disregard for the long-term implications. What is at stake in how we respond to environmental insecurity is the healing of this rift and, in turn, the preservation of human life into the future. Any suggested solutions to environmental vulnerability must account for these concerns and provide a sound basis for redressing the imbalance in the humanity-nature relationship.**

#### The Alternative is to reject the affirmative’s anthropocentrism.

#### Discursive criticism is necessary to challenge the framework of Anthropocentrism- the domination of the non-human world is maintained through discourse and communal meanings.

**Turner 09**

Summer 09 (Rita Turner UMBC: An Honors University in Maryland “The Discursive Construction of Anthropocentrism”. Environmental Ethics; Summer2009, Vol. 31 Issue 2, p183-201, 19p. 2009 EBSCO <http://web.ebscohost.com/ehost/detail?vid=3&hid=106&sid=6c27a5b4-37cc-45d1-92e8-1efc915f4205%40sessionmgr110&bdata=JmxvZ2lucGFnZT1sb2dpbi5hc3Amc2l0ZT1laG9zdC1saXZl#db=aph&AN=42988162#db=aph&AN=42988162>)

**Our businesses, policies, and lifestyles cause unexamined consequences for** other people and other **living beings, and exact sweeping destruction on the very ecosystems which support all life, including our own**. A major factor contributing to **this destructive behavior is the anthropocentric character** of the dominant Western world view, **which conceives of the nonhuman living world as apart from and less important than the human world, and which conceptualizes nonhuman nature -** including animals, plants, ecological systems, the land, and the atmosphere-**as inert, silent, passive, and valuable only for its worth as a resource for human consumption. This anthropocentric conceptual framework is constructed, transmitted, and reproduced in the realm of discourse**, in all of the modes and avenues through which we make and express cultural meaning. We need to make explicit the ways that mainstream Western and American discourse promotes anthropocentrism and masks, denies, or denigrates interdependence, and we need to find ways to reformulate and reframe our discouse if we are to produce the sort of ecological consciousness that will be essential for creating a sustainable future

## Case

#### The plan’s legal solutions merely mask sovereign power and legitimatize exclusion

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[Margaret, "Bare Life and the Limits of the Law," Theory & Event, 9:2, 2006, muse.jhu.edu/journals/theory\_and\_event/v009/9.2kohn.html, accessed 9-12-13, mss]

Giorgio Agamben is best known for his provocative suggestion that the concentration camp – the spatial form of the state of exception - is not exceptional but rather the paradigmatic political space of modernity itself.  When Agamben first made this claim in Homo Sacer (1995), it may have seemed like rhetorical excess. But a decade later in the midst of a permanent war on terror, in which suspects can be tried by military tribunals, incarcerated without trial based on secret evidence, and consigned to extra-territorial penal colonies like Guantanamo Bay, his characterization seems prescient. The concepts of bare life, sovereignty, the ban, and the state of exception, which were introduced in Homo Sacer, have exerted enormous influence on theorists trying to make sense of contemporary politics. Agamben recently published a new book entitled State of Exception that elaborates on some of the core ideas from his earlier work. It is an impressive intellectual history of emergency power as a paradigm of government. The book traces the concept from the Roman notion of iustitium through the infamous Article 48 of the Weimar constitution to the USA Patriot Act. Agamben notes that people interned at Guantanamo Bay are neither recognized as prisoners of war under the Geneva Convention nor as criminals under American law; as such they occupy a zone of indeterminacy, both legally and territorially, which, according to Agamben, could only be compared to the Jews in the Nazi Lager (concentration camps) (4). Agamben's critique of the USA Patriot Act, at least initially seems to bare a certain resemblance to the position taken by ACLU-style liberals in the United States. When he notes that "detainees" in the war on terror are the object of pure de factorule and compares their legal status to that of Holocaust victims, he implicitly invokes a normative stance that is critical of the practice of turning juridical subjects into bare life, e.g. life that is banished to a realm of potential violence. For liberals, "the rule of law" involves judicial oversight, which they identify as one of the most appropriate weapons in the struggle against arbitrary power. Agamben makes it clear, however, that he does not endorse this solution. In order to understand the complex reasons for his rejection of the liberal call for more fairness and universalism we must first carefully reconstruct his argument. State of Exception begins with a brief history of the concept of the state of siege (France), martial law (England), and emergency powers (Germany). Although the terminology and the legal mechanisms differ slightly in each national context, they share an underlying conceptual similarity. The state of exception describes a situation in which a domestic or international crisis becomes the pretext for a suspension of some aspect of the juridical order. For most of the bellicose powers during World War I this involved government by executive decree rather than legislative decision. Alternately, the state of exception often implies a suspension of judicial oversight of civil liberties and the use of summary judgment against civilians by members of the military or executive. Legal scholars have differed about the theoretical and political significance of the state of exception. For some scholars, the state of exception is a legitimate part of positive law because it is based on necessity, which is itself a fundamental source of law. Similar to the individual's claim of self-defense in criminal law, the polity has a right to self-defense when its sovereignty is threatened; according to this position, exercising this right might involve a technical violation of existing statutes (legge) but does so in the name of upholding the juridical order (diritto). The alternative approach, which was explored most thoroughly by Carl Schmitt in his books Political Theology and Dictatorship, emphasizes that declaring the state of exception is the perogative of the sovereign and therefore essentially extra-juridical. For Schmitt, the state of exception always involves the suspension of the law, but it can serve two different purposes. A "commissarial dictatorship" aims at restoring the existing constitution and a "sovereign dictatorship" constitutes a new juridical order. Thus, the state of exception is a violation of law that expresses the more fundamental logic of politics itself. Following Derrida, Agamben calls this force-of-law. What exactly is the force-of-law? Agamben suggests that the appropriate signifier would be force-of-law, a graphic reminder of the fact that the concept emerges out of the suspension of law. He notes that it is a "mystical element, or rather a fictio by means of which law seeks to annex anomie itself." It expresses the fundamental paradox of law: the necessarily imperfect relationship between norm and rule. The state of exception is disturbing because it reveals the force-of-law, the remainder that becomes visible when the application of the norm, and even the norm itself, are suspended. At this point it should be clear that Agamben would be deeply skeptical of the liberal call for more vigorous enforcement of the rule of law as a means of combating cruelties and excesses carried out under emergency powers. His brief history of the state of exception establishes that the phenomenon is a political reality that has proven remarkably resistant to legal limitations. Critics might point out that this descriptive point, even if true, is no reason to jettison the ideal of the rule of law. For Agamben, however, the link between law and exception is more fundamental; it is intrinsic to politics itself. The sovereign power to declare the state of exception and exclude bare life is the same power that invests individuals as worthy of rights. The two are intrinsically linked. The disturbing implication of his argument is that we cannot preserve the things we value in the Western tradition (citizenship, rights, etc.) without preserving the perverse ones. Agamben presents four theses that summarize the results of his genealogical investigation. (1) The state of exception is a space devoid of law. It is not the logical consequence of the state's right to self-defense, nor is it (qua commissarial or sovereign dictatorship) a straightforward attempt to reestablish the norm by violating the law. (2) The space devoid of law has a "decisive strategic relevance" for the juridical order. (3) Acts committed during the state of exception (or in the space of exception) escape all legal definition. (4) The concept of the force-of-law is one of the many fictions, which function to reassert a relationship between law and exception, nomos andanomie. The core of Agamben's critique of liberal legalism is captured powerfully, albeit indirectly, in a quote from Benjamin's eighth thesis on the philosophy of history. According to Benjamin, (t)he tradition of the oppressed teaches us that the 'state of exception' in which we live is the rule. We must attain a concept of history that accords with this fact. Then we will clearly see that it is our task to bring about the real state of exception, and this will improve our position in the struggle against fascism. (57) Here Benjamin endorses the strategy of more radical resistance rather than stricter adherence to the law. He recognizes that legalism is an anemic strategy in combating the power of fascism. The problem is that conservative forces had been willing to ruthlessly invoke the state of exception in order to further their agenda while the moderate Weimar center-left was paralyzed; frightened of the militant left and unwilling to act decisively against the authoritarian right, partisans of the rule of law passively acquiesced to their own defeat. Furthermore, the rule of law, by incorporating the necessity of its own dissolution in times of crisis, proved itself an unreliable tool in the struggle against violence. From Agamben's perspective, the civil libertarians' call for uniform application of the law simply denies the nature of law itself. He insists, "From the real state of exception in which we live, it is not possible to return to the state of law. . ." (87) Moreover, **by masking the logic of sovereignty, such an attempt could actually further obscure the zone of indistinction that allows the state of exception to operate.** For Agamben, law serves to legitimize sovereign power. Since sovereign power is fundamentally the power to place people into the category of bare life, the law, in effect, both produces and legitimizes marginality and exclusion.

#### Due process rights claims are easily overridden and legitimate the biopolitical order

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[John, "'Society Must Be [Regulated]': Biopolitics and the Commerce Clause in Gonzales v. Raich," Lewis & Clark Law Review, Winter 2005, 9. Lewis & Clark L. Rev. 853, l/n, accessed 9-12-13, mss]

What, then, about individual rights-based resistance to biopolitics? For several reasons, I think rights-based objections fail almost completely. n76 First, one must formulate the right at issue, and there is no general right not to have a regulatory state. Not all of the work of biopolitics turns on direct management of people in ways that restrict their liberty. The collection and publication of data on the economy or education, and much of the work of the Army Corps of Engineers or the National Institutes of Health, for example, trespasses on no individual liberty interests in any sense that would have a hope of legal recognition. With respect to those activities that more often implicate liberty interests - the activities of, say, the Federal Bureau of Investigation, the Occupational Safety and Health Administration, or large parts of the Department of Health and Human Services - the most one could argue for, I think, is a "presumption that any restriction on the rightful exercise of liberty is unconstitutional unless and until the government convinces a hierarchy of judges that such restrictions are both necessary and proper." n77 One might even [\*871] argue that this formulation is truest to the original understanding of the Constitution. n78 The problem, of course, is that the courts have never read the Constitution to include such a broad rule - and they are unlikely ever to do so. Although it is a signpost of modernity, the meaning of the Constitution nonetheless also reflects and changes in response to the forces of modernity that include the development of biopolitics. Without broad-based liberty claims, procedural and substantive due process provide the most obvious avenues for relief. One of the touchstones of procedural due process, however, is the balancing of individual interests against government interests and the interests of the process itself. n79 Such claims do not prevent biopolitical regulation; rather they merely require it to work through channels in which individuals may be heard. The fact that, for example, a welfare recipient has the right to be heard at a meaningful time and in a meaningful manner does not make the provision and administration of welfare benefits less biopolitical in any "meaningful" way. The person being heard, whatever the outcome of the hearing, has still been inspected, recorded, and placed within a rationally-defined category that is managed, perhaps perfectly appropriately, for the greater good. n80 Substantive due process also provides little traction. Most rights claims will take the form of liberty interests that the government can override on a showing that it reasonably could have determined that regulation was necessary to achieve a legitimate purpose n81 - a test that is designed to make room for regulation. A small category of substantive due process claims will involve fundamental rights, as of course will claims grounded on more specific constitutional rights, but they do almost nothing to prevent biopolitical regulation. Victories, when they come, are usually about carving out a small space as protected within the regulatory program (much as the law of federalism carves out a small space for exclusive state regulatory authority) or about forcing more even-handed - and thus often simply more - regulation. Take, for example, the right to choose whether to obtain an abortion. The exercise of this right - where that is financially and geographically possible - requires a medical procedure every aspect of which is heavily regulated (often [\*872] for reasons having nothing to do with the politics of abortion). It also requires the woman seeking the abortion to behave in certain ways - to perform the role of woman seeking abortion. Frequently, she will have to walk publicly through a line of protestors, read certain material about the fetus, read certain material about the risks she is taking, and navigate the various and diverging approved attitudes towards abortion that she will be urged to assume. n82 She must act, in short, as one of a class of persons exercising a legal right against a state and a public that as a matter of law also has a protected interest in her health, sexuality, and pregnancy. Whatever one thinks about the right to choose, the exercise of this right certainly does not free a woman from the regulatory state. Rather, it further enmeshes her in it. Going further, rights claims usually end up admitting the legitimacy of government action. Defining a right against government action also entails defining the proper scope of government action. Where the right ends, legitimate state power over us begins. When the right is determined through a balancing test, moreover, the limits of legitimate state power become quite murky. Claims of constitutional rights, then, nibble around the edges of the biopolitical state, and even when they prevail, they legitimate biopolitics far more often than they challenge it. Finally, it is worth remembering that rights claims are not the same as liberty and freedom - that is, those words can be defined in ways that have little to do with, or at least go well beyond, the freedoms achieved by legal rights. The language of legally enforceable rights as we know it today, on the other hand, exists precisely because of the centralized nation state, so that even a successful rights claim is an exercise of state power. As Agamben puts it, The spaces, the liberties, and the rights won by individuals in their conflicts with central powers always simultaneously prepared a tacit but increasing inscription of individuals' lives within the state order, thus offering a new and more dreadful foundation for the very sovereign power from which they wanted to liberate themselves. n83

Aff’s definition of “person will be circumvented” – the law is not enough – their Gregory evidence establishes that lawful solutions are embedded within Eurocentric power structures that only demand even more power, means the supreme court will redefine those detained to “enemy combatants” and get around it.

#### Legal restraints legitimizes violence and enables the state to move targets outside the zone of law- allows killing with impunity, turns the case because the policies that get modeled are worse than the squo only the alt can remedy

Pugliese, 13 -- Macquarie University Cultural Studies professor

[Joseph, Macquarie University MMCCS (Media, Music, Communication and Cultural Studies) research director, *State Violence and the Execution of Law: Biopolitcal Caesurae of Torture, Black Sites, Drones,* 3-15-13, ebook accessed via EBL on 8-30-13, mss]

In examining the violence of useless suffering in the context of the genocides of the twentieth century, Levinas notes that ‘the very phenomenon of suffering in its uselessness is, in principle, the pain of the Other. For an ethical sensibility - confirming in itself in the inhumanity of our time, against this inhumanity - the justification of the neighbour's pain is certainly the source of all immorality.’16 The US state's inflicting of violence and useless suffering on the other - whether through torture practices or civilian mutilations and deaths due to drone strikes - has been justified through the use of law. As a law-abiding state, in contradistinction to what it terms the ‘ungoverned places of the world,' the US state's invocation of the rule of law in order to justify and legitimate its torturous and exterminatory violences is crucial in enabling it to maintain what Max Weber terms ‘the monopoly of the legitimate use of physical violence within a certain territory.’ ‘The state,’ having arrogated this monopoly, ‘is held to be the sole source of the "right" to use violence.’ As Austin Sarat and Thomas Kearns note, law's claim to legitimacy in its use of violence is ‘the minimal answer to skeptical questions about the ways law's violence differs from the turmoil and disorder law is allegedly brought into being to conquer.’18 In invoking law`s power ‘to conquer,’ they underscore the manner in which **this** minimal **claim to legitimacy works to occlude the imperial vocation of law to exercise violence** in order **to render the other's violence as lawless, uncivilized and irrational**. As I demonstrate in what follows, the violent force of this binary is precisely what scripts, under the imprimatur of a range of laws, the US state’s conduct of its war on terror. The minimal status of the US state's claim to legitimacy through law in the conduct of this same war is precisely what emerges as dubious and untenable. Law, as deployed by the state, acts to legitimate the state`s violent practices even as it can also be rendered irrelevant to the state`s prerogative to exercise violence. ‘The ideological core of the modern state,’ writes Alan Hunt, ‘lies in the varieties of the idea of a state based on law (Rechtsstaat) epitomised by the constitutional doctrine of the rule of law.' However, as Hunt immediately qualifies, ‘This powerful ideological motif coexists with legal renunciation, the self-conscious recognition of arenas of state action with which the courts will not interfere. The standard example is the exclusion of matters of "national security" from legal scrutiny.’19 As I discuss in some detail in Chapter 5, the ruse of ‘national security' is precisely what animates the deployment by the state of strategies of redaction and material destruction of incriminating evidence; censorial strategies that place the state and its agents beyond legal scrutiny and juridical accountability. For the state's monopoly on violence to continue to appear as a non-negotiable actuality. it must be exercised infact. Etienne Balibar delineates what is at stake: ‘if the so-called "foundational violence" of state power is to exist (or appear as foundational), it must not only be idealized or sacralized - that goes without saying – but also actually exercised and implemented at some points and times, in some visible "zones" of the system.’ Once situated in these zones, Balibar writes, ‘we realize that, in many cases, we are at the extreme borders of cruelty.’20 The torture practices that were legally licensed by the Torture Memos offer a graphic instantiation of this visible exercise of state violence at, and beyond, the extreme borders of cruelty. They offer, moreover, tangible evidence of the manner in which law enables the state to couch its right to exercise violence in a rationalist mode; to speak its violent enactment with a tone of neutral and reasoned modulation that legitimates the use of violence precisely by disavowing its devastating lived effects as endured by its target subjects.21 As those subjects who have been at the receiving end of state violence repeatedly testify, it is law's capacity for rationalist instrumentalization that disassociates it from the violence it at once sanctions and enables. Only in this way can the memos coolly argue, for example, that the collective acts that constitute waterboarding fail to breach the US Torture Statute: Assuming adherence to the strict limitations discussed herein, including the careful medical monitoring and available intervention by the team as necessary, we conclude that although the question is substantial and difficult, the authorized use of the waterboard by adequately trained interrogators and other team members could not reasonably be considered specifically intended to cause severe physical or mental pain or suffering and thus would not violate sections 2340-2340A [of the US Torture Statute].22 As l discuss in Chapter 4, the role of medical personnel in the torture sessions went well beyond mere ‘monitoring.’ Here, however, their invocation underscores the rational tenor of the discourse as the objective and veridical status of the medical sciences will further evidence the mem0's reasoned conclusions: As we understand Hom OMS [CIA's Olfice of Medical Scivices] personnel familiar with the history of the waterboarding technique . . . there is no medical basis to believe that the technique would produce any mental effect that directly accompanied its use and the prospect that it will be used again." The discourse of medical science here functions to anesthetize the agents of torture, not their victims, from the possibility that their actions will produce severe pain, even as the discourse of law works to exonerate these same agents from the culpability of their actions. The use of qualifications of (‘the question is substantial and difficult’) marks the reflective process of reason at work; everything has been carefully weighed and considered before coming to a reasonable and clinical conclusion: waterboarding does not cause severe physical or mental pain. Abu Zubaydah, in his torture testimony. describes his experience of waterboarding: I was put on what looked like a hospital bed, and strapped down very tightly with belts. A black cloth was then placed over my face and the interrogators used a mineral water bottle to pour water on the cloth so I could not breathe . . . The pressure of the straps on my wounds caused severe pain. I vomited. The bed was again lowered to a horizontal position and the same torture carried out . . . I struggled to breathe. I thought I was going to die. I lost control of my urine. Since then I still lose control of my urine when under stress.24 The decision of former President Bush, on 7 February 2002, to suspend the applicability of the Geneva Conventions toward both al-Qaeda and Taliban ﬁghters in Afghanistan enunciated a signiﬁcant shift in policy, what he termed ‘a new paradigm,’ 25 that would effectively ramify down to the lowest levels of US military doctrine and practice. In ‘The Legal Narrative,’ an essay that discusses the ofﬁcial memos that preceded and followed Bush’s decision to suspend the Geneva Conventions with regard to both Taliban and al-Qaeda detainees, Joshua Dratel writes: ‘like the Nazis’ punctilious legalization of their “ﬁnal solution,” the memoirs reproduced here [in The Torture Papers ] reveal a carefully orchestrated legal rationale, but one without valid legal or moral foundation.’ 26 ‘The torture lawyers,’ writes David Luban, aimed ‘to construct a judicially- endorsed practice of permissible torture’; they ‘were constructing a torture culture.’ 27 This torture culture, however, was not something abruptly brought into being by the memoranda. On the contrary, as I discuss in the chapters that follow, torture practices in the US have a long and complex genealogy that stretches back to the colonial wars against Native Americans; 28 it encompasses the lynching and systematic mutilation of African Americans into the twentieth century, the waterboarding and beating of Filipino prisoners during the imperial Filipino–American War 1899–1913, 29 the CIA propagation of torture during the Cold War and the Vietnam War, 30 and it assumes contemporary dimensions, as I discuss in Chapter 2, in the torture of African American prisoners by police in Chicago’s infamous Area 2. 31 Torture, in other words, has been a normative practice in the operation of the US nation- state in terms of its laws and its agents – both legal (for example, army and police) and extralegal (vigilantes and lynching parties). As Darius Rejali has noted, torture and democratic states have a long history of working hand- in-hand; indeed, democratic states have been ‘innovators in this area, in that techniques they ﬁrst used appear in many places around the world.’ 32 As a recursive practice that inscribes the history of the US since the colonial foundation of the nation, torture has been ﬁrmly embedded in law; this has worked to render its operations invisible because normative. The enjoyment of torture’s invisibility, however, has been the exclusive privilege of those normative subjects who have rarely ever been its targets: white human- rights-bearing- citizen subjects. For those subjects classiﬁed as non- normative by the state, the state’s exercise of violence has been, on the contrary, only too visible in the context of their everyday lives. Situated in this context, I read the Torture Memos as contemporary codiﬁcations of state violence that must be situated along a continuum of torture practices. Moreover, they must be seen as retrospectively sanctioning torture practices that were already in train: the torture of detainees by US agents is documented as actually pre- dating the writing of the Torture Memos, having ‘begun as early as December 2001,’ thus well prior to the ofﬁcial imprimatur that the Torture Memos would give to such practices. 33 The scripting of the Torture Memos as ‘exceptional’ can only be maintained by effacing the extensive genealogies of US torture that animate and enable its contemporary manifestations – which is not to say that this in any way vitiates the enormity of the violence that they unleashed under the legitimating aegis of law. The spurious legal rationales espoused by the Torture Memos, that effectively suspended the Geneva Conventions, work to cast this same convention as, in the words of Alberto R. Gonzales, White House Counsel, ‘quaint’ and therefore ‘obsolete’ in the context of a ‘new paradigm.’ 34 As the American Bar Association argued, in its condemnation of the Administration’s refusal to include both Taliban and al-Qaeda detainees under the protection of the Geneva Conventions, ‘There is no indication that there is any category of armed conﬂict that is not covered by the Geneva Conventions. The Geneva Conventions apply to the totality of a conﬂict including the regular forces, irregulars (whether or not privileged combatants) and civilians.’ 35 The rhetorical moves deployed by the Administration to render the provisions of the Geneva Conventions ‘quaint’ and ‘obsolete’ functioned to undermine both the credibility and relevance of the Conventions so as to enable the eventual dismissal of much more substantive aspects of the Geneva Conventions: First, some of the language of the GPW [Geneva Conventions Relative to the Treatment of Prisoners of War] is undeﬁned (it prohibits, for example, ‘outrages upon personal dignity’ and ‘inhuman treatment’), and it is difﬁcult to predict with conﬁdence what actions might be deemed to constitute violations of the relevant provisions of GPW. 36 The framing of both ‘outrages upon personal dignity’ and ‘inhuman treatment’ as amorphous and ‘undeﬁ ned’ categories enabled these same categories to be dismissed in their application to both Taliban and al-Qaeda detainees. The voluminous exchange of memos between President Bush and his legal advisers discloses a paper trail driven by the need to construct the elaborate appearance of a legal rationale that will legitimate torture. Foundational to this construction of a legal rationale for torture was the Bybee Memo. Judge Jay S. Bybee, as Legal Counsel to the President, produced the Memorandum for Alberto R. Gonzales, Counsel to the President, articulating the ‘Standards of Conduct for Interrogation under 18 USC §§ 2340–2340A’ in the context of the conduct of interrogations outside of the United States. The Bybee Memo is concerned with deﬁ ning torture in order to establish certain interrogation practices that could be used by US interrogators without risking prosecution for violating the US Torture Statute. 37 Bybee opens his Memo by outlining his legal deﬁ nition of torture: You have asked for our Ofﬁ ce’s views regarding the standards of conduct under the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment as implemented by Sections 2340–2340A of the title of the United States Code. We conclude below that Section 2340A proscribes acts inﬂ icting, and that are speciﬁ cally intended to inﬂ ict, severe pain or suffering, whether mental or physical. Those acts must be of an extreme nature to rise to the level of torture within the meaning of Section 2340A and the Convention. We further conclude that certain acts may be cruel, inhuman, or degrading, but still not produce pain and suffering of the requisite intensity to fall within Section 2340A’s proscription against torture. We conclude by examining possible defenses that would negate any claim that certain interrogation methods violate the statute. 38 Putting to the side the examination of a convenient list of ‘possible defenses’ that might offer the perpetrators of torture legal immunity, the Ofﬁ ce of Legal Counsel is here promulgating what would appear to be a ﬁ nely nuanced biopolitical program of torture that pivots on questions of ‘intensity’ and ‘severity.’ Torture is here positioned as only coming into ontological existence when the torturers produce levels of pain that are ‘of an extreme nature.’ Torture is, through this move, circumscribed to an ontological ground that must be, at every turn, shadowed by the possibility of death. The disturbing consequences of this biopolitical circumscription are clinically and lucidly elaborated under Section B of this memo, under the rubric of Severe Pain or Suffering: The key statutory phrase in the deﬁ nition of torture is the statement that acts amount to torture if they cause ‘severe physical or mental pain or suffering’. . . Section 2340 makes plain that the inﬂ iction of pain or suffering per se, whether it is physical or mental, is insufﬁ cient to amount to torture. Instead, the text provides that pain or suffering must be ‘severe.’ The statute does not, however, deﬁ ne the term ‘severe.’ In the absence of such a deﬁ nition, we construe a statutory term in accordance with its ordinary or natural meaning . . . These statutes suggest that ‘severe pain,’ as used in Section 2340, must rise to a similarly high level – the level that would ordinarily be associated with a sufﬁ ciently serious physical condition or injury such as death, organ failure, or serious impairment of bodily functions – in order to constitute torture. 39 Torture, then, is delimited to the inﬂ iction of pain such that it either causes death or, alternatively, places the victim within the fatal parameters of ‘organ failure or serious impairment of bodily functions.’ Any violent action inﬂ icted on the victim that fails to produce potentially fatal results is thereby quarantined from qualifying as torture. In terms of military doctrine, this extraordinary qualiﬁ cation must be seen as enabling and legitimating the wide range of violent acts inﬂ icted, as I discuss in Chapter 2, on the prisoners at Abu Ghraib – as long as they did not result in death. In the wake of this fatal circumscription, torture is ofﬁ cially sanctioned along a continuum of carefully managed intensities, punctuated by levels of pain that, the reﬂ exively disciplined torturer ‘knows,’ must not go beyond that deﬁ ned level of intensity that will place their victim within the domain of possible death. As an ex-CIA interrogator recounts: ‘When I read the legal support for our instructions – the now infamous Department of Justice “torture memo” – it was simply transparent that the justiﬁ cation was a “do- what-you- want” card that swept away in one executive note extensive American and international jurisprudence and proscriptions against torture.’ 40 Articulated in the Bybee Memo is a biopolitical economy of torture that is predicated on an objectifying theatricalization of pain. This objectifying theatricalization of pain demands that the victim produces an intelligible, codiﬁ ed range of signiﬁ cations that will alert the torturer to the fact that they are crossing a seemingly visible and intelligible line in the exercise of violence and the production of pain toward a clearly discernible death. This semiotics of torture produces a body that communicates its intensities of pain to the torturer in an apparently unequivocal manner, signalling through its repertoire of cries, moans, screams or faints whether or not the victim is approaching the irreversible line where they cross over to death. Posited here is the notion of the torturer as a type of legal hermeneut, decoding and interpreting the symptomatology of pain and anguish offered up by the victim’s body. The torturer plies the body and tears, assaults and violates its surfaces and its interior. In the process, the torturer is positioned as semiotically intextuating the body: every injury is available to be interpreted as a sign that will communicate to the torturer precisely where, along this clearly legible continuum of pain (mild to severe), the victim is located. Inscribed within this economy of torture is a double violence: at the same time that the body is violently compelled to perform a repertoire of signs of trauma, the victim must speak the linguistic truth of confession, delivering up a narrative of secrets that fundamentally supplements the truth- in-violence exercised upon the body of the tortured. Within this political economy of torture, the facticity of torture qua torture really only comes into being in the death of the victim. The veridicality of torture, its truth- value, must be seen as ultimately predicated on the production of death. If one pursues the legal rationale of this memo to its logical conclusion, at the moment of the victim’s death, the torturer is ﬁ nally confronted with the incontrovertible evidence of having produced torture as such : the cadaver of the victim bears mute testimony to this fact. Before the unarguable evidence of this fact, the victim had merely been on a trajectory toward torture. Within this violent teleological economy of biopolitical violence, it is only the terminus in death that establishes the fact that torture as such has taken place. Drones and imperial laws of war If the US government produced, in its Torture Memos, a series of legal rationales by which to justify its use of torture, then an equivalent scenario has emerged in the context of its use of drones to kill at- a-distance. In the face of international outcries over the dubious legality of the use of drones to kill targets in foreign states, the US government has issued legal brieﬁngs that argue that the use of drones, in places such as Afghanistan and Pakistan, has been legitimated by both domestic and international law. The US Department of State argues that drone attacks are conducted under formal laws – speciﬁ cally, the Authorization for Use of Military Force (AUMF) that Congress passed days after the 9/11 attacks. In two key sentences that have no expiry date, the AUMF gives the president sole power to use ‘all necessary and appropriate force against nations, groups or persons who committed or aided the attacks, and to prevent future attacks.’ 41 Harold Hongju Koh, Legal Adviser, US Department of Justice, has stated that: it is the considered view of this [Obama] Administration – and it has certainly been my experience during my time as Legal Adviser – that US targeting practices, including lethal operations conducted with the use of unmanned aerial vehicles, comply with all applicable law, including the laws of war. The United States agrees that it must conform its actions to all applicable law. As I have explained, as a matter of international law, the United States is in an armed conﬂict with al-Qaeda, as well as the Taliban and associated forces, in response to the horriﬁc 9/11 attacks, and may use force consistent with its inherent right to self- defense under international law. As a matter of domestic law, Congress authorized the use of all necessary and appropriate force through the 2001 Authorization for Use of Military Force (AUMF). These domestic and international legal authorities continue to this day. 42 Koh’s invocation of ‘domestic and legal authorities’ operates to provide the ‘legal guidance’ that will justify the use of drones as lethal technologies that kill at-a-distance. Drone strikes are conducted by both conventional military personnel and the CIA. The CIA, in the execution of its own drone program is, in effect, operating as a paramilitary organization. John A. Rizzo, who served as the CIA’s acting general counsel, helped draft the protocols for such lethal attacks. Requests for targeted killings are sent to the CIA’s Counterterrorism Center, northern Virginia, ‘where lawyers – there are roughly 10 of them, says Rizzo – write a cable asserting that an individual poses a grave threat to the United States. The CIA cables are legalistic and carefully argued. If the targeted killing is approved, the general counsel signs off and adds the term “concurred.” Rizzo has been quoted as boasting “How many law professors have signed off on a death warrant?” ’ 43 As Dana Priest and William Arkin have observed: ‘Rizzo, the lawyers at the CTC [Counterterrorism Center], and the head of the National Clandestine Service (formerly the CIA Directorate of Operations) would act as judge and jury on these terrorism ﬁ les’; the targeted subject was thus effectively killed ‘without a hearing, without giving the targeted man a chance to refute the information or even to admit guilt and surrender.’ 44 In the words of one former senior US intelligence ofﬁ cial, the CIA drone program has turned the agency ‘ “into one hell of a killing machine” . . . Blanching at his choice of words, he quickly offered a revision: “Instead say, ‘one hell of an operational tool’.”’ 45 The kill lists that constitute the drone targeted killing program have, indeed, expanded so as to now include US citizens. The US government has assassinated three of its native- born citizens – Anwar al-Awlaki, his 16-year old son Abdulrahman al-Awlaki, and Samir Khan – through drone strikes in Yemen. Awlaki was actually called in to advise the Pentagon after the 9/11 attacks ‘on how to promote moderate over extreme Islam. But as has since become evident, whatever advice those clerics gave to the US war- planners was not followed. Two murderous invasions and occupations, replete with atrocities against innocent civilians,’ have incited hundreds of Muslims, including Anwar Awlaki, to take up arms against the US. 46 In the current deployment of drone strikes to execute its own citizens, US government lawyers have argued that ‘the president should have unreviewable authority to kill Americans.’ 47 The deployment of drones across different nations against which the US is not at war, including Pakistan, Yemen, Somalia and Libya, has been ofﬁ cially legitimated by a ‘domestic policy of anticipatory self- defense.’ 48 The policy of ‘anticipatory self- defense’ can be seen as President Obama’s re- codiﬁ cation of the Bush imperial doctrine of ‘preventive war’; both policies evidence the continued re- animation of the notion of US exceptionalism. 49 Anticipatory self- defence offers the US administration carte blanche to conduct war wherever it ‘anticipates’ its suspect targets might lurk. As I discuss in Chapter 6, under the Obama administration Bush’s ‘war on terror’ has morphed into a ‘war against al-Qaeda.’ 50 This shift in nomenclature is signiﬁcant as it enables the exercise of war wherever suspect al-Qaeda targets supposedly lurk, regardless of geography, national boundaries or sovereignties. In this unbounded arena of war, drones emerge as the perfect weapons that silently transgress the very things that the US government is so preoccupied in protecting on its own homeland: national sovereignty and security. Drones have been represented by the administration as ideal attack weapons ‘in dealing with terrorist groups in ungoverned places of the world.’ 51 The Orientalist trope of the lawless and ungoverned other has lost none of its force or salience in the opening decade of the twenty-ﬁrst century as the customary way of legitimizing imperial incursions in places such as Afghanistan or Pakistan. 52 Indeed, the international law doctrine of territorial sovereignty is conveniently reduced, by the US administration’s apologists, to a mere ‘diplomatic ﬁction’ that cannot be equally applied to all nation- states. Such apologists duly discount the possibility of drone attacks in, for example, ‘London or Paris’ as what is justiﬁ ed in the ungoverned regions of Somalia or Yemen is a different matter applied to places under the rule of law such as our friends and allies. The United States is not going to undertake a targeted killing in London. The diplomatic ﬁction of the ‘sovereign equality’ of states makes it difﬁcult to say, as a matter of international law that, yes, Yemen is different from France, but of course that is true. 53 Postcolonial legal scholars have drawn attention to the historical foundation of the discipline of international law in the violent moment of the colonial encounter. In his genealogical tracking of the historical emergence of international law in Francisco de Vitoria’s jurisprudential work on the relations between imperial Spain and its Indian colonies, Antony Anghie notes that ‘The vocabulary of international law, far from being neutral, or abstract, is mired in this history of subordinating and extinguishing alien cultures.’ 54 The Orientalist logic that enables the discursive practices of imperial intervention is perhaps nowhere more graphically evidenced than in the US military’s neologism ‘AfPak’ to describe the ‘zone of hostilities’ in which it is conducting its current war. 55 AfPak, in keeping with its Orientalist determinations, homogenizes and collapses two different nations, Afghanistan and Pakistan, into one undifferentiated amalgam. The conceptual ﬂ attening and erasing of difference that is operative in this geopolitical neologism functions to legitimate the conduct of war across the terrain of both sovereign nations, Afghanistan and Pakistan, as though they were one. The imperial position that argues that target nations can have their sovereignty violated with impunity – because their territory is undifferentiated, malleable and always ‘open’ to the entitlements of empire – is clearly evidenced by current US doctrine: ‘Wherever the enemy goes, we are entitled to follow and attack him as a combatant. Geography and location – important for diplomatic reasons and raising questions about the territorial integrity of states, true – are irrelevant to the question of whether it is lawful to target under the laws of war; the war goes where the combatant goes.’ 56 In the words of one US senator, ‘This is a worldwide conﬂ ict without borders.’ 57 More accurately, this is a worldwide conﬂ ict in which the borders of the target nations of the Global South are rendered irrelevant through the US state’s exercise of imperial power, even as its own borders are defended through processes of militarized securitization. Out- law no- bodies The use of law to justify the torture and killings that the state can perpetrate is predicated on the understanding that the state’s target subjects are, as the embodiment of ungovernable violence, at once anathema to and beyond law and thus outside of any ethical consideration. A documentary history of torture in the United States evidences the recursive marking of the state’s black and colored subjects as, in Thomas Jefferson’s words, ‘out of the protection of the laws.’ 58 The torture and killing of such subjects, Denise Ferreira da Silva writes, does ‘not unleash an ethical crisis because these persons’ bodies and the territories they inhabit always- already signify violence.’ 59 In the diffuse and malleable schema of the war on terror, the loaded descriptors ‘terrorist,’ ‘enemy combatant,’ ‘sand nigger,’ ‘Muslim,’ ‘insurgent,’ ‘of Middle Eastern appearance’ and so on – all identify subjects who always- already signify violence in advance of the fact of actually having committed any violent acts. As embodiments of violence, they are out-laws situated beyond due processes of law. **As**, in da Silva’s words, ‘**no- bodies’** ‘**with/out legality**,’ 60 **they are mere biological matter that can be exterminated without compunction. As** I examined **in** my discussion of the Torture Memos and **drone legal briefs**, **the liberal democratic state uses law** in order **to present an ofﬁcial front of due process** and ordered governance, **thereby legitimating its monopoly on violence**. At the same time, this use of law is also inscribed with an aporetic contradiction: the liberal democratic state at once legislates and executes law in order to be seen as just in its violent conduct, even as, in places such as the secret black site prisons, as I discuss in Chapter 5, it places its target subjects beyond the reach of law. Giorgio Agamben elaborates on this aporia in his theorization of ‘zones of exception’ that are constituted by the ‘inexecution’ of law. 61 ‘One of the paradoxes of the state of exception,’ writes Agamben, ‘lies in the fact that in the state of exception it is impossible to distinguish transgression of the law from the execution of law.’ 62 It is in the zones marked as states of exception that Agamben famously situates the ﬁgure of ‘bare life’ that can be killed with impunity. Reviewing the contemporary biopolitical state, Agamben decisively concludes that the ‘exception everywhere becomes the rule.’ In other words, the space of the camp and the ‘unpunishability’ of killing bare life have interpenetrated the very fabric of the contemporary state so as to assume normative dimensions. 63 As I discuss below, outside spaces of exception (black site prisons) are already inside the US state (Immigration and Customs Enforcement prisons).

#### Discursive archeology re-entrenches domination- empirics prove

**Hernando ‘13** [Dr. Almudena Hernando Gonzalo, Associate Professor at the Department of Prehistory of the Complutense University of Madrid, her work focuses on archeological theory, “Change, individuality and reason, or how Archaeology has legitimized a patriarchal modernity,” <http://www.academia.edu/3984983/Change_individuality_and_reason_or_how_archaeology_has_legitimized_a_patriarchal_modernity._In_A._Gonzalez-Ruibal_ed._Reclaiming_Archaeology._Beyond_the_tropes_of_Modernity._Routledge_London_pp._155-67._2013>]

In terms of legitimation procedures, archaeology as a discourse was actually not much different from myth. Mythological discourses project the group’s social order onto sacred levels of agency, and then turn this relation of analogy on its head, interpreting that the group’s survival as the¶ elect ¶ , the¶ chosen ones¶ , is precisely confirmed and ¶ guaranteed by its resemblance to that supernatural sphere. In similar fashion modern archaeology - influenced by positivist and evolutionist paradigms - constructs the past through a projection of those elements of present day society it aims at legitimating: ignoring all other factors, the past is selectively scanned for evidence of change, power, individuality, rationality or technology, and the obvious conclusion is then triumphantly established: our (western) culture has developed all those characteristics far beyond and in advance of all others, which means it stands a far greater chance of succeeding(surviving). This discursive operation was typical of historicist and processual archaeology: it was taken for granted that no other logic but our own could preside any viable human interaction with the world. Consequently, the worldviews of present-days scholars were straightforwardly and unquestioningly projected onto other times and cultures, churning out veritable exercises in ethnocentric evolutionism that demoted all human groups in previous ages (and by the same token, also those societies with a similar level of technology in present times) to the status of mere precedents or harbingers of all that our own advanced, fully mature culture has achieved (Trigger 1984; McNiven and Russell 2005; Hernando 2006). Although postprocessual archaeology rejected the ethnocentric bias, along with positivism and evolutionism. the deep structures underpinning the discourse of archaeology remained, however, unchanged in most cases: as a discourse, it was now legitimating postmodernism’s ontology of the present, which was based on the transcendental subject. Particular subjects and their differences became the aspect of the past to be scanned for (Hodder 2003: cap. 9), and individuality as a mode of personhood was hypostatized into universality (Knapp and Meskell 1997; Knapp and VanDommelen 2008; Machin 2009). Unsatisfied with the modernist subject presented by archaeology, some researchers shifted their attention to issues such as ‘things’ (Olsen2010), but many archaeologists (including historicist, processual and post-processual) kept producing the same kind of narratives centred on change, conflict, power, individuality, personal subjectivity, technology or rationality. Factors such as stability, recurrence, relational identity, bonding and emotion were deemed of secondary relevance or not relevant at all. Thus even when the present-day bearers of these values were taken into account (such as women and indigenous peoples), and indeed post- processual archaeologists were the first to pay attention to them, they were frequently pictured through the same modernist lens emphasizing power, change and individuality (Montón-Subías and Sánchez-Romero, 2008; McNiven and Russell 2005; Atalay 2006;C. Gnecco and A. Haber, both in this volume).

#### Discursive archaeology fails- we’ll re-embrace old methods

**Calvert-Minor ’10** [Chris, PhD, Associate Professor of Philosophy¶ Department of Philosophy & Religious Studies¶ University of Wisconsin-Whitewater, “Archeology and Humanism: An Incongruent Foucault,” June, <http://www.kritike.org/journal/issue_7/calvert-minor_june2010.pdf>]

To engage in the act of trying to imagine an unperceived object is ¶ already a failed attempt, for one cannot subtract oneself as a perceiver from the ¶ act. Foucault theorizes that the epistemological position of the archaeologist is ¶ externally neutral to the discourses under study and that the fruit of his labor is ¶ a pure description of the discursive rules of formation immanent to the texts. ¶ Foucault is asking us to believe that we can accurately describe the conceptual ¶ framework of foreign concepts without the importation of our own concepts. ¶ In the spirit of Berkeley, we should certainly ask: can the archaeologist subtract ¶ herself from her methodology to the extent that Foucault requires? The ¶ answer is ‘no’ because we have no recourse to archaeological theorizing ¶ without our own concepts; to avoid using our own concepts in any analysis ¶ makes as little sense as trying to imagine an unperceived object. And this is a ¶ familiar point in post-positivist philosophy, stating that all observation, theory formation, and interpretation do not occur in vacuums, but are thoroughly ¶ constituted by our cognitive capacities and conceptual systems.20 In brief, the¶ normativity of our own concepts seeps into all “descriptive” projects – and this ¶ means that no project is purely descriptive. Foucault inadvertently assents to ¶ projects of theorizing that are fundamentally inconceivable. His error is the ¶ failure to theorize himself as the archaeologist adequately in his own poststructuralist methodology. ¶ Foucault’s mistake presents a substantial problem for him. Discussing ¶ the transition between the Classical and Modern epistemes, Foucault makes the ¶ comment, “When discourse ceased to exist and function within representation ¶ as the first means of ordering it, Classical thought ceased at the same time to ¶ be directly accessible to us.”21 This is a crucial statement Foucault needs to ¶ make to demarcate the Modern from the Classical episteme, but it derails his ¶ archaeology. Classical thought is not directly accessible to us in the sense that ¶ it is set within an epistemological infrastructure that is foreign to us. We, as ¶ Modern archaeologists standing outside that infrastructure, neither use nor ¶ “think” the same kinds of concepts as those Classical texts we are studying.22¶ Therefore, we must use our own epistemological orderings and concepts to ¶ understand those foreign discursive practices because there is no other ¶ recourse; the Modern archaeologist is wholly constituted as a knowing subject ¶ by the epistemological framework of the Modern episteme. Thus, to reiterate, ¶ the discourses we analyze must be constituted by our Modern epistemic rules ¶ of formation. If this is what we must do, it is then strange that Foucault speaks ¶ of distinct foreign epistemes with altogether different rules of formation. This ¶ situation makes it hard even to refer meaningfully to this kind of utterly foreign ¶ episteme. As others have argued, if we conceive of “foreign” epistemes at all ¶ (or conceptual schemes as Donald Davidson writes), they cannot be absolutely ¶ foreign because we have to locate them on a common coordinate axis in ¶ relation to our own episteme in order for us even to understand them.23 The ¶ presumptive nature of rationality means that we must interpret other people¶ and other discourses as conceptually and rationally like ourselves; otherwise the ¶ other is not considered foreign or irrational, but simply unintelligible. There ¶ would be a failure to understand the other, and worse, a failure to imagine what ¶ it would take to understand. Needless to say, this contradicts Foucault’s ¶ archaeological presuppositions because he clearly believes that he can ¶ understand and classify the Classical episteme without importing his own ¶ concepts and rationality. ¶ Foucault’s interpretive problem grows into two related difficulties. ¶ First, when the archaeologist is theorized adequately into her own ¶ methodology, the archaeologist can no longer adopt a purely post-structuralist ¶ position on pains of inconsistency. Rather, she must admit to a level of ¶ humanismm. Since the archaeologist identifies demarcations between ¶ epistemes and interprets epistemic discourses according to her taxonomic ¶ concepts, the methodology she engages revolves around her consciousness, ¶ even as she maps discursive structures. This does not preclude archaeological ¶ analysis in toto, but it does mean that one must be attuned to and account for ¶ how one shapes the employed methodology. As it stands, however, Foucault’s ¶ post-structuralism is self-defeating if its humanisticm element goes ¶ unincorporated. ¶ The second difficulty is closely related to the first regarding the truth ¶ and meaningfulness of archaeological analysis. For Foucault’s stated method ¶ to work, the archaeologist must perform a double phenomenological ¶ bracketing of truth and meaning, both in her own episteme and the episteme ¶ she is describing, so that she can study the epistemological conditions for truth ¶ and meaning in different epistemes without the interference of contaminating ¶ conceptions.24 Archaeological findings, then, have a paradoxical status. The ¶ archaeologist reveals these discoveries under the assumptions that they ¶ accurately describe some characteristic about an episteme and that these ¶ discoveries are intelligible to us, whereas according to the constraints of double ¶ bracketing, these reports can neither be accurate nor intelligible since truth and ¶ meaning play no regulative role. One may retort that archaeological findings ¶ are always relayed through the conditions of truth and meaning immanent to ¶ the episteme under study. Unfortunately, this response succumbs to the first ¶ difficulty noted above where we cannot help but impute our notions of truth ¶ and meaning into the conceptual project of delineating the epistemic ¶ conditions for truth and meaning in the other episteme. ¶ All of this suggests that Foucault is caught in the analytic of finitude he ¶ believes he safely avoids. Foucault reduces the human subject to an epistemic ¶ node constituted by practices of truth and meaning made possible by the ¶ episteme; the episteme wholly constitutes the knowing, intelligible subject. ¶ This explains for Foucault how the subject is not of her own making. She is an ¶ empirically finite subject derived from social, economic, historical, and ¶ epistemic constitutional practices. At the same time, however, she is still the ¶ archaeologist who conceptualizes the analysis and theorizes the contours and ¶ limitations of the episteme, thereby assuming the role of the transcendental ¶ observer who is able to bifurcate herself from the interpretive process. This ¶ situation echoes the transcendental-empirical doublet that tenuously ¶ acknowledges that we are entirely empirical while also the infinite knowers who ¶ methodologically constitute the field of experience and analysis. Thus, by ¶ Foucault’s own conclusions, his archaeological project is unstable and in need ¶ of revision.

# 2NC

#### We control root cause – their impacts are just the extension of anthropocentric logic

Kochi, Queen's University School of Law lecturer, and Ordan, linguist, 08 (Tarik and Noam, Borderlands Volume 7 Number 3, 2008, "An Argument for the Global Suicide of Humanity,")

When taking a wider view of history, one which focuses on the relationship of humans towards other species, it becomes clear that the human heritage – and the propagation of itself as a thing of value – has occurred on the back of seemingly endless acts of violence, destruction, killing and genocide. While this cannot be verified, perhaps ‘human’ history and progress begins with the genocide of the Neanderthals and never loses a step thereafter. It only takes a short glimpse at the list of all the sufferings caused by humanity for one to begin to question whether this species deserves to continue into the future. The list of human-made disasters is ever-growing after all: suffering caused to animals in the name of science or human health, not to mention the cosmetic, food and textile industries; damage to the environment by polluting the earth and its stratosphere; deforesting and overuse of natural resources; and of course, inflicting suffering on fellow human beings all over the globe, from killing to economic exploitation to abusing minorities, individually and collectively.

### Anthro K link

#### Their calls for widespread change fall into the same logic of progress that has resulted in speciesist violence and the destruction of the environment

Kochi, Queen's University School of Law lecturer, and Ordan, linguist, 08 (Tarik and Noam, Borderlands Volume 7 Number 3, 2008, "An Argument for the Global Suicide of Humanity,")

In another sense the ethical demand to respond to historical and present environmental destruction runs onto and in many ways intensifies the question of radical or revolutionary change which confronted the socialist tradition within the 19th and 20th centuries. As environmental concerns have increasingly since the 1970s come into greater prominence, the pressing issue for many within the 21st century is that of social-environmental revolution. [9] Social- environmental revolution involves the creation of new social, political and economic forms of human and environmental organisation which can overcome the deficiencies and latent oppression of global capitalism and safeguard both human and non-human dignity.¶ Putting aside the old, false assumptions of a teleological account of history, social-environmental revolution is dependent upon widespread political action which short-circuits and tears apart current legal, political and economic regimes. This action is itself dependent upon a widespread change in awareness, a revolutionary change in consciousness, across enough of the populace to spark radical social and political transformation. Thought of in this sense, however, such a response to environmental destruction is caught by many of the old problems which have troubled the tradition of revolutionary socialism. Namely, how might a significant number of human individuals come to obtain such a radically enlightened perspective or awareness of human social reality (i.e. a dialectical, utopian anti-humanist ‘revolutionary consciousnesse’) so that they might bring about with minimal violence the overthrow of the practices and institutions of late capitalism and colonial-speciesism? Further, how might an individual attain such a radical perspective when their life, behaviours and attitudes (or their subjectivity itself) are so moulded and shaped by the individual’s immersion within and active self-realisation through, the networks, systems and habits constitutive of global capitalism? (Hardt & Negri, 2001). While the demand for social-environmental revolution grows stronger, both theoretical and practical answers to these pressing questions remain unanswered.¶ Both liberal and social revolutionary models thus seem to run into the same problems that surround the notion of progress; each play out a modern discourse of sacrifice in which some forms of life and modes of living are set aside in favour of the promise of a future good. Caught between social hopes and political myths, the challenge of responding to environmental destruction confronts, starkly, the core of a discourse of modernity characterised by reflection, responsibility and action. Given the increasing pressures upon the human habitat, this modern discourse will either deliver or it will fail. There is little room for an existence in between: either the Enlightenment fulfils its potentiality or it shows its hand as the bearer of impossibility. If the possibilities of the Enlightenment are to be fulfilled then this can only happen if the old idea of the progress of the human species, exemplified by Hawking’s cosmic colonisation, is fundamentally rethought and replaced by a new form of self-comprehension. This self-comprehension would need to negate and limit the old modern humanism by a radical anti-humanism. The aim, however, would be to not just accept one side or the other, but to re-think the basis of moral action along the lines of a dialectical, utopian anti-humanism. Importantly, though, getting past inadequate conceptions of action, historical time and the futural promise of progress may be dependent upon radically re-comprehending the relationship between humanity and nature in such a way that the human is no longer viewed as the sole core of the subject, or the being of highest value. The human would thus need to no longer be thought of as a master that stands over the non-human. Rather, the human and the non-human need to be grasped together, with the former bearing dignity only so long as it understands itself as a part of the latter.

### 2NC – Ethics Impact

#### All species have intrinsic value

**Shepard 3**

Florence Shepard. DEEP ECOLOGY FOR TIlE 21 ST CENTURY, 2003 [h ttp :/lwww . newd imensions .org/on 1 ine-j ournal/artic les/deep-eco logyhtm 1]

**The diverse voices of leading ecologists and activists inspire us to renew our efforts to bring ecological harmony to Planet Earth.** They bring us hope that though direct involvement in our own bioregions, at the same time staying abreast of world-wide problems, we can help turn around the global ecological disasters that seem imminent. Although unique, each viewpoint shares the common, ethical tenets of deep ecology: **The community of companions on Planet Earth is egalitarian, they tell us. The lives of all creatures are of intrinsic value. The quality of life on earth for all species depends on mindful, tempered actions by humans, the dominant organism interdependently joined to all others and to the air, water, and terrain**. Deep Ecology is not a political or economic ideology yet it affects all of our actions and decisions, it is a spiritual**, egalitarian orientation to life on Earth that can and must be embraced by all peoples of all beliefs, if we are to turn the tide of human population growth and massive habitat and species destruction on Planet Earth. There is really no other way out of the crisis we face. It is a matter of conscience, ethics, and action. Although we must act locally, we must look beyond our own gardens and recycling bins.** For Kirkpatrick Sale this means moving from an individualistic to a community orientation. With their deconstruction of so-called “free-trade,” Jerry Mander and Helena Norberg-1-lodge explain how global commerce is destroying local economies and cultures. Sessions suggests that changes will require radical alterations in our life iyies and must include action at the personal and local level as well as thoughtful involvement in global issues.

#### This means if we win a link, they lose - The debate is not a question of whether or not they benefit people – it’s about whether or not the 1AC violates the intrinsic value of human and non-human animals

Eric **Katz**, Director of Science, Technology, and Society Program at the New Jersey Institute of Technology, **1997**

[*Nature as Subject* p. 9-10]

**Utilitarianism** might be salvaged for use in the environmental debate if it is stripped of its bias towards the satisfaction of human needs and preferences. Bentham, it should be remembered, considered the pains and pleasures of the animal kingdom to be of important, a utilitarian calculation. According to this kind of position, the needs and desires of the wildlife in a given area would have to be considered prior to any development or destruction for the purpose of human betterment **Unfortunately**, the problems with this kind of broad utilitarianism appear **insurmountable**. How does the satisfaction of **animal** needs compare in utility with the satisfaction of **human** needs? Can we bring plant life into the calculation? What about nonliving entities, such as rock formations (e.g., the Grand Canyon) or entire ecological areas? Does a marsh have an interest in not being drained and turned into a golf course, a need or desire to continue a natural existence? It is clear that difficult--if not impossible--problems arise when we begin to consider utility for nonhuman and nonsentient entities. A second alternative, highly tentative, is a movement away from a "want-oriented perspective" in ethical theory. Rather than evaluat­ing the moral worth of an action by the **consequences** which satisfy needs and desires in the humyn (or even nonhumyn) world, we can look at the **intrinsic** qualities of the action, and determine what kind of **values** this action manifests. The question which the debate over environmental preservation raises is *not* "Does preservation of this par­ticular natural object lead to a better world?" but rather "'Do we **want a world** in which the preservation of natural objects is considered an important **value**?" The question is **not** whether the preservation of a certain entity increases the amount of satisfaction and **pleasure** in the world, but rather, whether these pleasures, satisfactions, and needs ought to be pursued. The question, in short, is about what kind of **moral universe** **ought to be created**. Only when the preservation of natural objects is seen to be an **intrinsically** good policy of action, rather than a means to some kind of **satisfaction**, will a policy of environmental protection be explained and justified. The development of an ethical theory which can accomplish this task will be a difficult undertaking, but it is the only choice open to preservationists.

The permutation devolves into self-serving rationalizations—ethical compromises are unacceptable.

Lupisella & Logsdon 97

(Mark, masters degree in philosophy of science at university of Maryland and researcher working at the Goddard Space Flight Center, and John, Director, Space Policy Institute The George Washington University, Washington, “DO WE NEED A COSMOCENTRIC ETHIC?” <http://citeseerx.ist.psu.edu/viewdoc/summary?doi=10.1.1.25.7502>)

Steve Gillett has suggested a hybrid view combining homocentrism as applied to terrestrial activity combined with biocentrism towards worlds with indigenous life.32 Invoking such a patchwork of theories to help deal with different domains and circumstances could be considered acceptable and perhaps even desirable especially when dealing with something as varied and complex as ethics. Indeed, it has a certain common sense appeal. However, instead of digging deeply into what is certainly a legitimate epistemological issue, let us consider the words of J. Baird Callicott: “But there is both a rational philosophical demand and a human psychological need for a self-consistent and all-embracing moral theory. We are neither good philosophers nor whole persons if for one purpose we adopt utilitarianism, another deontology, a third animal liberation, a fourth the land ethic, and so on. Such ethical eclecticism is not only rationally intolerable, it is morally suspect as it invites the suspicion of ad hoc rationalizations for merely expedient or self-serving actions.”33

### 2NC – Alternative

#### Changing the way we conceive our relationship to nature is critical to revealing the social construction of bodies within discourses of oppression

Bell, York University department of education, and Russell, Lakehead University associate professor, 2k (Anne C. and Constance L., department of education, York University, Canada, and Canadian Journal of Environmental Education, “Beyond Human, Beyond Words: Anthropocentrism, Critical Pedagogy, and the Poststructuralist Turn,” CANADIAN JOURNAL OF EDUCATION 25, 3 (2000):188–203, http://www.csse-scee.ca/CJE/Articles/FullText/CJE25-3/CJE25-3-bell.pdf, p. 198-99)

So far, however, such queries in critical pedagogy have been limited by their neglect of the ecological contexts of which students are a part and of relationships extending beyond the human sphere. The gravity of this oversight is brought sharply into focus by writers interested in environ- mental thought, particularly in the cultural and historical dimensions of the environmental crisis. For example, Nelson (1993) contends that our ina- bility to acknowledge our human embeddedness in nature results in our failure to understand what sustains us. We become inattentive to our very real dependence on others and to the ways our actions affect them. Educators, therefore, would do well to draw on the literature of environ- mental thought in order to come to grips with the misguided sense of independence, premised on freedom from nature, that informs such no- tions as “empowerment.”¶ Further, calls for educational practices situated in the life-worlds of students go hand in hand with critiques of disembodied approaches to education. In both cases, critical pedagogy challenges the liberal notion of education whose sole aim is the development of the individual, rational mind (Giroux, 1991, p. 24; McKenna, 1991, p. 121; Shapiro, 1994). Theorists draw attention to the importance of nonverbal discourse (e.g., Lewis & Simon, 1986, p. 465) and to the somatic character of learning (e.g., Shapiro, 1994, p. 67), both overshadowed by the intellectual authority long granted to rationality and science (Giroux, 1995; Peters, 1995; S. Taylor, 1991). Describing an “emerging discourse of the body” that looks at how bodies are represented and inserted into the social order, S. Taylor (1991) cites as examples the work of Peter McLaren, Michelle Fine, and Philip Corrigan.¶ A complementary vein of enquiry is being pursued by environmental researchers and educators critical of the privileging of science and abstract thinking in education. They understand learning to be mediated not only through our minds but also through our bodies. Seeking to acknowledge and create space for sensual, emotional, tacit, and communal knowledge, they advocate approaches to education grounded in, for example, nature experience and environmental practice (Bell, 1997; Brody, 1997; Weston, 1996). Thus, whereas both critical pedagogy and environmental education offer a critique of disembodied thought, one draws attention to the ways in which the body is situated in culture (Shapiro, 1994) and to “the social construction of bodies as they are constituted within discourses of race, class, gender, age and other forms of oppression” (S. Taylor, 1991, p. 61). The other emphasizes and celebrates our embodied relatedness to the more-than-human world and to the myriad life forms of which it is comprised (Payne, 1997; Russell & Bell, 1996). Given their different foci, each stream of enquiry stands to be enriched by a sharing of insights.¶ Finally, with regard to the poststructuralist turn in educational theory, ongoing investigations stand to greatly enhance a revisioning of environ- mental education. A growing number of environmental educators question the empirical-analytical tradition and its focus on technical and behavioural aspects of curriculum (A. Gough, 1997; Robottom, 1991). Advocating more interpretive, critical approaches, these educators contest the discursive frameworks (e.g., positivism, empiricism, rationalism) that mask the values, beliefs, and assumptions underlying information, and thus the cultural and political dimensions of the problems being considered (A. Gough, 1997; Huckle, 1999; Lousley, 1999). Teaching about ecological processes and environmental hazards in a supposedly objective and rational manner is understood to belie the fact that knowledge is socially constructed and therefore partial (A. Gough, 1997; Robertson, 1994; Robottom, 1991; Stevenson, 1993).