# 1AC

**Contention One is Indefinite Detention**

**First, indefinite detention is made possible by the sovereign declaration of the state of exception. Indefinite detention centers produce bare life mirroring the exceptionalism of the sovereign authority to commit violence without consequence.**

**Van Munster 04**

(Rens, University of Southern Denmark¶ Department of Political Science Senior Researcher. International Journal for the Semiotics of Law. The War On Terrorism: When The Exception. Pg 141-153. {Shoell})

**Schmitt** thus **inverses the traditional** Hobbesian **definition of¶ sovereignty** as the juridical sanctioned power to rule. Sovereignty is¶ not established after the state of nature; rather, **the sovereign¶ declaration of the state of exception simultaneously creates the¶ state of nature and the rule of law through the abandonment of¶ life, reducing (some) subjects to bare life**.4 Sovereign power thus¶ constantly reproduces what it claims to presuppose. That is, **the¶ social contract that brings the sovereign into being masks the fact¶ that sovereignty essentially operates through a ban: ‘‘The originary¶ relation of law to life is not application but abandonment.**’’5 First,¶ **the sovereign is characterised by the fact that he can exempt¶ himself from the law**. Second, **in doing so sovereign power¶ excludes sacred life from the human-made juridical order in the¶ sense that the latter can be killed without punishment. Thus, the¶ sovereign and homo sacer are the mirror images of the sovereign¶ operation**: ‘‘the sovereign is the one with respect to whom all men¶ are potentially homines sacri, and homo sacer is the one with¶ respect to whom all men act as sovereigns.’’6 To put it simply**: if¶ the sovereign is defined by his capability to exempt himself from¶ the law, homo sacer is defined as the bearer of this sovereign ban**.¶ Hence, for Carl Schmitt **sovereignty shows itself not in a normal¶ situation** (or more accurately: it shows itself only in its potentiality)¶ **but in the state of exception**, which is the authentic self-definition of a¶ political community in the sense that it both constructs and delimits¶ political space.7 Although Agamben finds Schmitt’s definition of¶ sovereignty useful, he identifies a third variation of order and localisation¶ besides the rule of law and the state of exception: ‘‘To an¶ order without localization (the state of exception, in which law is¶ suspended) there now corresponds a localization without order (the¶ camp as the permanent space of exception).’’8 **For Agamben, the¶ camp exemplifies the space that is opened up when the state of¶ exception finds a more permanent location:¶ The camp is thus the structure in which the state of exception** – the possibility of¶ deciding on which founds sovereign power – **is realized normally**…[It] actually¶ **delimits a space in which the normal order is de facto suspended and in which¶ whether or not atrocities are committed depends not on the law but on the civility¶ and ethical sense of the police who temporarily act as sovereign**.9¶ Originally, the camp was an exclusive, secret, space surrounded by¶ walls that divided social life within the political community from the¶ bare life in the camps. However, according to Agamben the space of¶ the state of exception has transgressed the spatiotemporal boundaries¶ of the camp. The exception has become the rule: ‘‘Today it is not the¶ city but rather the camp that is the fundamental biopolitical paradigm¶ of the West.’’10 Taking his cue from Michel Foucault, **Agamben maintains that¶ the sovereign right to take life has become supplemented and¶ permeated by a right to make life**. In modern societies the sovereign¶ threat of death has been complemented with a concern to take¶ charge of biological life in order to make it more productive, fertile, healthy, etc.11 **Instead of threatening with death, biopolitics¶ is a form of power that is concerned with the correction, administration¶ and regulation of populations. Seeking to take charge of¶ life,** ‘‘it does not have to draw the line that separates the enemies¶ of the sovereign from his obedient subjects; it effects distributions¶ around the norm.’’12 The inclusion of pure life in politics, then,¶ also marks a shift from law to the (statistical) norm in the sense¶ that **bare life is not only**, or not even first and foremost, **produced¶ in the sovereign process of taking life, but through the process of¶ making life, i.e. through the distribution of human life around a¶ norm with the purpose of reducing life’s distance to this norm.¶** Although the incorporation of bare life in the political realm has¶ made it possible to reduce, amongst others, famine and mortality¶ in the West, it has also given rise to ‘caring’ practices such as¶ racism and eugenics: ‘‘**What follows is a kind of bestialization** of¶ man **achieved through the most sophisticated political techniques.¶ For the first time in history…it becomes possible both to protect¶ life and to authorize a holocaust.**’’13 **Agamben’s rendering of sovereign power and bare life is driven¶ by an ethical drive to lay bare the juridico-political mechanisms of¶ power that make it possible to commit acts of violence that do not¶ count as crime**.14 While not denying the uniqueness of the suffering¶ in the Nazi concentration camps, **Agamben discovers similar structures¶ in contemporary society**. He points out that camp-like structures¶ such as **detention centres for illegal migrants, airport holding¶ zones and humanitarian relief camps all produce bare life** in the¶ sense that **decisions on the life of people can be taken outside the¶ normal framework of rule, but which nevertheless are not completely¶ illegal and without connection to that law**. In the context of this¶ paper, **the Guantanamo Bay detention centre for suspected terrorists**¶ **is another case in point.**15 However, as Edkins has noted, Agamben¶ has not inquired deeper into the politics of emergency or the politics¶ of the ban in which the sovereign and homo sacer are constituted as¶ each other’s mirror image.16 Therefore, the following sections aim to¶ provide insight into the ways in which the American governance of¶ the emergency of 9/11 constitute global American sovereignty on the¶ one hand and reduce political subjects to the naked life of homo¶ sacer.

**And indefinite detention centers are vanishing points maintained through the intersections of biopower and sovereign power. Revealing the different mechanisms of power that constitute these spaces of exception is the first step to opposing them.**

**Gregory 7**

(Derek, Professor of Geography at the University of British Columbia, “Vanishing Points: Law, Violence and Exception in the Global War Prison,” From: Violent Geographies: Fear, Terror and Political Violence, ISBN: 041595147)IAA

The ‘vanishing points’ that I seek to identify in this essay can be brought into preliminary view through three figures and two sites. The three figures are a hooded man, a masked philosopher and an outlaw president, none of whom is quite what he seems. The two sites are the US Naval Station at Guantánamo Bay and Abu Ghraib prison in Iraq: and neither of these is quite what it seems either.¶ A hooded man, a masked philosopher and an outlaw president¶ In the middle of October 2003 Haj Ali al-Qaisi, the former Mukhtar – community leader – of al Madifai, a district west of Baghdad, was arrested by US troops on his way to work. He was hooded, handcuffed, and taken to Abu Ghraib prison, where he was asked about Saddam Hussein, Osama bin Laden and the insurgency. ‘They wanted me to become their eyes in the region,’ he said. But he protested that he knew nothing, and he was left to kick his heels in a large tent compound. Ten days later he was taken to Cage 49 in Cellblock 1. There he was interrogated daily, and frequently made to spend the night hanging by his handcuffs from the crossspiece of the bars in his cage. Finally, he was told that he had exhausted the patience of his captors. Forced up on a box, electrodes were attached to his fingers. Again he was asked for names of insurgents, and again he protested that he did not know any. Silence. He could see the flashes of cameras through the rough hood. Then he felt the first electrical shocks: ‘My eyes felt like fire, my whole body shook; I lost feeling in my tongue and bit it. I fell down; my tongue was bleeding. They took the hood from my face and a doctor came to me. He opened my mouth with his foot and put some water in my mouth and said, “He is OK. Shock him some more.”’ He endured two more sessions before being returned to the tent compound. He says he vomited when he saw the sun. He was released in January 2004 and told that it had all been ‘a mistake’**.** For some considerable time Al Qaisi was believed to be the hooded man in the iconic photograph from Abu Ghraib, but it now seems that this was another prisoner who was subjected to similar treatment. According to a terse deposition from Abdou Hussain Saad Faleh, he was forced to stand on a box ‘with no clothing, except a blanket. Then a tall soldier came and put electrical wires on my fingers and toes and on my penis, and I had a bag over my head. Then he was saying, “Which switch is for¶ electricity?”’1¶ **Some commentators have exploited the uncertain identification of ‘the hooded man’ to discredit Al Qaisi’s testimony and his work for the Association of the Victims of American Occupation Prisoners, while Faleh’s testimony – like that of other victims – is shuffled off into an appendix to one of the official investigations**. But their voices need to be heard, for the fact remains that the war prison described by victims like these is a far cry from the modern carceral regime described by ‘the masked philosopher’, Michel Foucault. It is a strange hybrid. It is not a prisoner of war camp, since its central operation is the continued interrogation of prisoners taken during the ‘war on terror’, most of whom are denied the status of prisoners of war; yet many of its sites are inspected by the International Committee of the Red Cross which is required to visit all prisoners held as a result of armed conflict or military violence. Neither is it an ordinary prison, since its inmates have been captured by security forces and placed outside the normal legal process, and the regime to which they are subjected is not an intrinsically correctional one; yet they are subject to stringent surveillance and moved through a hierarchy of spaces depending on their co-operation with their captors. In what follows I suggest that the war prison (like the ‘war on terror’ more generally) can be understood as¶ a dispersed series of sites where sovereign power and bio-power coincide. 2¶ It was Foucault who distinguished these two modalities of power, but Italian philosopher Giorgio **Agamben claims that Foucault failed to locate the ‘vanishing point’ to which these ‘perspectival lines’ converged, ‘a hidden point of intersection between the juridical-institutional and the bio-political models of power**.’ In fact, however, Foucault was acutely aware of their contradictory combination, and argued that they coincided within the paroxysmal space of the Third Reich. **This is the same constellation identified by Agamben, who describes the point of intersection between the two as the production¶ of bare life – ‘life exposed to death’ – and treats the concentration camp in general and Auschwitz in particular as the paradigmatic space of political modernity**. 3 Here I treat the global war prison as neither a paroxysmal nor a paradigmatic but a potential space of political modernity, which is given form and force through a profoundly colonial apparatus of power that the metropolitan preoccupations of Foucault and Agamben more or less erase.¶ One of the crucial differences between these philosophical projects is that Foucault focused on strategies through which the normal order contains and confines ‘the outside’ (the sick, the mad, the criminal) whereas Agamben focuses on strategies through which ‘the outside’ is included ‘by the suspension of the juridical order’s validity – by letting the juridical order withdraw from the exception and abandon it.’ **This ‘space of the exception’**, Agamben argues, **is produced through martial law and a state of emergency, which then become the ground through which sovereign power constitutes and extends itself. I**t is here that we encounter ‘the outlaw president’. **Three days after the terrorist attacks on the Pentagon and the World Trade Center on 11 September 2001 President George W. Bush declared a National Emergency ‘by reason of [those] attacks and the continuing and immediate threat of further attacks on the United States.’ This was followed by a further declaration on 23 September 2001 to deal with ‘the unusual and extraordinary threat to the national security, foreign policy and economy of the United States’ by ‘grave acts of terrorism and threats of terrorism committed by foreign terrorists**.**’ The emergency has been renewed in each subsequent year**, and Agamben suggests that Bush ‘is attempting to produce a situation in which the emergency becomes the rule’: in which ‘provisional and exceptional measures’ are transformed into ‘a technique of government’. The cascade of national emergencies did not begin with Bush;¶ he has continued seven previous National Emergencies and declared eight others. 4 But¶ what attracts Agamben’s attention, and what distinguishes the double emergencies declared in September 2001, is their proximity to a supposedly new kind of war (the ‘war on terror’) and the legal formularies that have been mobilized around it. 5 Although it has become a commonplace to describe this as a ‘war on law’, however, I seek to show that it is also a war fought through the law (‘law as tactic’, as Foucault might say). **While the Bush administration shows manifest disdain for domestic and international laws, it neither dismisses nor disregards them**. 6 **This matters because it means that law is a site of political struggle not only in its suspension but also in its formulation, interpretation and application.**¶ Guantánamo and Abu Ghraib¶ **The Bush administration produced two different ‘exceptional’ geographies to account for – and prise apart – its operations at Guantánamo Bay and Abu Ghraib**. In the first case, **Guantánamo was construed as a legally constituted space of the exception.** It was selected because the Department of Justice believed that the location of the Naval Station – as ‘foreign territory, not subject to US sovereignty’ – would militate against any attempt to use federal courts to obtain a write of habeas corpus on behalf of enemy aliens held prisoner there. Other **legal protections were withdrawn** when the President determined thatneither al-Qaeda nor Taliban prisoners qualified as prisoners of war under the Geneva Conventions. In the second case, in contrast, **Abu Ghraib was declared a crime scene**, the incidents there held to be offences against both US military and international law, and official inquiries were conducted that issued in reprimands, disciplinary actions and (in the case of enlisted soldiers) courts-martial. What happened at Abu Ghraib was glossed as unacceptable but un-American, appalling but an aberration, inexcusable but an exception.¶ **The different meanings of exception that were invoked depend on the articulation of two different space-times. ‘Guantanámo’ signifies not only an ambiguous space – a grey zone over which the United States claims jurisdiction but not sovereignty – but also a place of indeterminate time: ‘As a territory held by the United States in perpetuity over which sovereignty is indefinitely deferred, the temporal dimensions of Guantánamo’s** 6 ¶ Indeed, both neo-liberalism and neo-conservatism work to disparage existing laws and juridical practices (the insistence on the supreme power of the 'unitary executive', the assault on 'activist judges', the drive to 'de-regulation') and also to introduce new ones that restrict democratic politics, roll back human rights and reify the market.¶ ¶ location make it a chillingly appropriate place for the indefinite detention of unnamed enemies in what the administration calls a perpetual war against terror.’ 7 Conversely, **‘Abu Ghraib’ is made to appear as a precise punctuation in time and space: the abuse of prisoners was supposedly confined** to Tier 1A of the so-called ‘Hard Site’ of the Baghdad Central Correctional Facility, and it occurred in a number of isolated incidents during the night shift from October through December 2003. **One is produced as an exception by**¶ **being located beyond the law; the other is produced as an exception by being localised within the law.¶ I want to contest all these partitions** by showing that ‘Guantánamo’ and ‘Abu Ghraib’ **are connected by the intersections of sovereign power and bio-power that are realized through a series of spaces that fold in and out of them.**¶

#### And the violence that occurs at through indefinite detention is not new-rather it is rooted in the prison industrial complex and other historically racist acts of confinement.

Van Veeren 13 (Elspeth, Postdoctoral Research Fellow at the Centre for International and Security Studies at York University in Canada and a Visiting Research Fellow at the Centre for Conflict and Security Research at the University of Sussex in the UK.. “Clean War, Invisible War, Liberal War: The Clean and Dirty Politics of Guantanamo.” [http://www.academia.edu/attachments/31046538/download\_file pp. 96-97](http://www.academia.edu/attachments/31046538/download_file%20pp.%2096-97) -Veeder)

In that sense, Guantánamo, defined as exceptional, also helped to erase and render invisible the violence of the wider carceral system, the ‘shadow carceral state’, in operation in the United States. 34 Guantánamo can therefore be read as emerging not only out of US military and CIA history, but also out of the US prison and wider carceral system, and therefore something un-exceptional. To focus on it as exceptional is to erase the violence of historical and more everyday sights and spaces, ones often based on race. For example, many of the guards who worked at Guantánamo were part of a revolving door of prison guards who worked in both military and civilian prison environments. Along with them came a host of prison practices, from the orange prison jumpsuits to the shackling, the system of levels of detainees, and the extreme reaction force used to forcibly extract detainees from their cells, to solitary and indefinite detention. Historically, Guantánamo also owes much to the earlier exclusion and confinement of Native Americans, the internment of Japanese-Americans during World War Two, the detention of refugees (even in the very same spaces) 35 , and the continued high levels of incarceration of African–Americans and Latinos within US prisons, which operated on the basis of the same logic of redefinition of the threat based on race. The road to Guantánamo and its (in)visibilities can therefore also be understood as connected to these practices operating across the United States, which also include the rapid expansion of detention of illegal migrants, the return of debtors’ prisons, and the expansion of civil detention for sex offenders and juveniles. They are a product of an American carceral system built around a ‘culture of punishment’, in Michelle Brown’s words, where incarceration is an expanding and logical response to managing risk and where pain is justifiable according to everyday understandings of detention and its purpose. Guantánamo’s emergence can therefore be understood first and foremost as a ‘collision’ of the politics of exception as well as of the unexceptional culture of punishment and risk. 36 We cannot consider Guantánamo solely as an exception carved out of the law when these practices transpire across the United States on an everyday basis and we should therefore look to what happens inside the US state as an explanation for how Guantánamo came to be a scene of so much (often invisible) violence. 37

**Violent mechanisms like indefinite detention aren’t maintained solely through the state-they are supplemented by individual decisions about who should be included in our calculations in the first place**

**Tagma 09** (Halit Mustafa, Department of Political Science at ASU. “Homo Sacer vs. Homo Soccer Mom: Reading Agamben and Foucault in the War on Terror.” *Alternative: Global, Local, Political,* Vol. 34, No. 4 (Oct.-Dec. 2009). Pg. 415-418 –Veeder)

According to Ashley, this pact between sovereign man and the state marks the dawn of modernity. To hint at a possible response to the question posed above, one might say that "mancraft" is where technologies of individualization ad totalization converge. If "mod- ern statecraft is modern mancraft," then sovereign subjectivity would be that form of subjectivity that the state creates and fosters. In re- turn, such subjects go on to produce the state and conduct its violent business. This helps us also understand the work of Judith Butler, who argues that **there is a reemergence of sovereignty at the local level where one sees petty bureaucrats having important say on matters of life and death**.31 This localized facet of sovereign power, I think, is also a good extension of Foucault's thesis that power works at the local level. Foucault writes: S**overeignty's old-right to take life or to let live was not replaced, but it came to be complemented by a new right which does not erase the old right** but which does penetrate it, permeate it. This tech- nology of power does not exclude the former, does not exclude dis- ciplinary technology, **but it does dovetail into it, integrate it, modify it to some extent, and above all, use it by sort of infiltrating it, em- bedding itself in existing disciplinary techniques**.32 Although Foucault is hinting at the local nature of disciplinary power compared with archaic centralized sovereignty, I think there is also another possible theoretical point to be developed. The localization of sovereignty is close to what I think William Connolly refers to when he argues that there is an "ethos of sovereignty" that is embedded in society, which makes the state of exception possible.33 Connolly ar- gues that **what occurs today is not a simple decision made at the top level, where a sovereign figure gets to decide on who counts as the enemy**, in the Schmittian sense. **Instead**, borrowing from Deleuze and Guattari, **sovereignty is not a force operating at the top level but is supplemented by: "rural fascism and city or neighborhood fascism, youth fascism, and war veteran's fascism, fascism of the Left and fas- cism of the Right, fascism of the couple, family, school, and office."34 Fascism works at the micro level** in the actions of soccer hooligans, nationalist militias, trigger-happy Blackwater mercenaries, racist bar- tenders, and bigoted party leaders**. What goes on in prison camps, un- derstood in this sense, is not just the product of a pure and simple Schmittian decision; instead, prison camps are spaces that are con- structed and maintained at the micro level. Prison camps are "legiti- mated" by a regime of truth and classification intrinsic to biopower**, **which provides petty bureaucrats, border patrol agents, intelligence interrogators, and so on, with the authority to implement sovereign violence on physical bodies**. **The local decisions and violence are com- mitted by petty bureaucrats who decide on a case-by-case basis which bodies will be tried in military tribunals. This is exactly what happened in the hearings of the detainees in Guantánamo Bay** by Administrative Review Boards (ARBs) , established on 11 May 2004 by the US Department of Defense. These **boards would determine on an individual basis whether a prisoner is to be re- leased, to be extradited to a third country, or to remain detained**. Kristine Huskey, as an expert on the subject, indicates the arbitrary nature of the process and how **it was up to a petty bureaucrat's inter- pretation** of the law.35 Even if the boards recommended the release of a prisoner, a petty bureaucrat "without ever having met the detainee, to determine whether the detainee was telling the truth or lying dur- ing the proceeding . . . can ignore the ARB recommendation."**36 It is entirely up to the subjective interpretation of a bureaucrat of con- cepts like, "enemy combatant," or "threat to the US and its allies," which allows for the continued exceptional detainment of many of these prisoners**. Such an interpretation, however, does not occur in a cultural and political vacuum, nor is it external to the play of power/ knowledge. It is not a matter of Schmittian decisionism. Instead, **the taking of life and indefinite detainment are themselves products of a regime of truth and a regime of classification. By hierarchizing and classifying certain races and types of people as less worthy of living, racist discourse enables biopower to conduct violence for the contin- uation and protection of the species**. **The taking of life by sovereign power is always informed by a regime of identifying, classifying, cate- gorizing, and profiling. It is this hierarchizing and territorializing aspect of biopower that allows certain bodies to be exposed to death**. As Paul Patton argues: "In an apparent anticipation of Agamben's thesis concerning the biopolitical character of politics today, Foucault sug- gests that the modern state 'can scarcely function without becoming involved with racism at some point.'"37 Despite the secrecy and security, the prisoners of Guántanamo Bay have attracted much attention. The more tragic cases of the "war on terror" are not to be found in such prison camps, rather they are to be found in the remote villages of Afghanistan and Pakistan. We may read about them in the unnoticed article every other week that reports of a drone attack "collaterally damaging" yet another sixty or seventy bodies in remote parts of Pakistan and Afghanistan. Such deadly airstrikes have also targeted Somalian villages suspected of harboring a few terrorists.38 Rarely is the morality of killing scores of innocent people to "get a few bad guys" questioned. More recently, on 4 September 2009, a German commander in the Kunduz province of Afghanistan called in an airstrike on two fuel tankers that were stolen by the Taliban. The immobilized tankers were surrounded by approx- imately one hundred Afghani villagers trying to get free fuel. When an F-l 5 jet dropped two 500-pound bombs, the crowd was immediately incinerated.39 Since the inception of the "war on terror" such news has become a weekly standard, meanwhile citizen-subjects look the other way under the assumption that they must have been bad guys. Still no inquiry has been made into the annihilation of (what is widely argued by locals to be) a remote Pakistani school and the school chil- dren in it by a Pakistani/US helicopter raid in 2006.40 What is impor- tant to keep in mind for our theoretical purposes is that such **violence is not only perpetrated by those who pull a trigger or push a button. Instead, it has a background: actions, decisions, discourses, and prac- tices conducted at the micro level by citizen-subjects.** **It is these citi- zen-subjects that state violence is carried out in the name of, and it is their bodies and wealth that is mobilized and put in danger to fight an enemy**. It is this form of subjectivity that sovereign power capital- izes on when they conduct killings in remote places.41 My point here is that **sovereign violence needs and capitalizes on sovereign subjects in order to produce deadly effects. The killing and violence itself may be conducted and administered by bureaucrats, but it requires citizen-subjects to mobilize the will and resources necessary for the sovereign violence**.42 With apologies to Edmund Burke, his popular quotation could be rephrased as: All it takes for sovereign violence to kill is the citizen-subject to either applaud or enlist. **Sovereign violence capitalizes on the fascistic desire found in the docile bodies of modernity: "For us to survive, those folks far away must die."** Of course, "those folks far away" have historically often been the colo- nial subjects of Europe. Where today smart bombs kill civilians in re- mote villages, colonial attempts to discipline natives included aerial bombardments of remote villages in faraway lands. In 1920, Winston Churchill, as British secretary of war, wrote a memo on the uncon- trollable villages in Northern Iraq: "I am strongly in favour of using poisoned gas against uncivilised tribes. The moral effect should be so good that the loss of life should be reduced to a minimum."43 Con- sistently, sovereign violence has been particularly brutal toward "infe- rior far away people."

**Biopolitics attempts to secure life against all threats results in a form of survival politics where the ultimate goal is to defeat death. This necessitates the selection of specific lives to make live, and allows for the extermination of all others**

**Dillon, 2008** (Michael, “Revisiting Franco’s Death” Foucault on Politics, Security and War. Pg 176-178, mb)

If Foucault is right, that **liberal peace is the extension of war by other means**, then t**hose other means come in the form of** the prevalence of **security discourses**. **Peace becomes the extension of war through the discourse of security.** [Foucault cryptically notes how liberal biopolitics is a dispositif de securite (Foucault, 2007: p. 91). **Its very arts of governance revolve around the securing of life as species existence**.] Here is how and why. **Whatever endangers the promotion of species life endangers liberal biopolitics. The peace for which liberal biopolitics strives is that of the uninterrupted promotion of species existence. Such a peace is endangered when it is challenged by other accounts of existence and by the sheer intractability of species existence itself. Liberal biopolitics makes war on that which endangers species existence through the discursive practices which seeks to secure the promotion of species existence. Peace and war find their biopolitical articulation in the biopolitical discourses of security** (Dillon and Reid, 2008). In sum, **making life live ostensibly rejects war as a virtue and proclaims peace.** The vocation of war is to kill. The vocation of biopolitics is 'to make live'. But **biopolitics cannot make live unless it preserves life from that which threatens it. To do that biopolitics must also seek a command of a refigured death, specifically that of biopoliticised economy of who shall live and who shall die**. Although he acknowledges it, Foucault does not reflect on this necropolitics beyond the observations he made about the state racism of Nazi Germany and the incipient racism of state socialism. My additional argument is that it is their **apparatuses of security** which, therefore**, do the biopolitical work of inscribing the logos of peace with the logos of war**. **Liberal peace is a necropolitics of security which makes permanent war against life on behalf of life. Making life live is therefore a lethal business because the promotion of species existence appears to be threatened on all sides, not only by alternative accounts of existence, but also by the danger which species existence always seems to pose to itself not least in often being resistant to the biopolitical injunction to make life live. For not all life can live if life itself is to be promoted. Some life is inimical to life and has to be exterminated if it cannot be corrected and reformed. Life is like that. To be precise species life is like that and so we have to clarify this basic classification of what it is to be a living being because it is foundational to biopolitics** and how, as such, it has need of the sub-division of species life into more or less functionally utile categories of human life to which the term race applies. Foucault pursues the point through two well formed questions: 'Given this power's objective is essentially to make live, how can it let die? **How can the power of death, the function of death, be exercised in a political system centred upon biopower**?' (Foucault, 2003b: P. 254). **The answer is** prefigured in how he habitually talks about power and politics in terms of **political rationalities and governmental technologies. If governmental technologies regulate, political rationalities ontologise**. They express an understanding of the real. In Foucault ontologies matter but he does not presume that material practices proceed from ontological principles. The world is too messy for that. **There is continual interplay between ontologising and technologising**. An understanding of the real lurks in every technology. Every ontology desires to be operationalised in an appropriate technology.6 **Biopolitics performs the ontologising and technologising thorough the simultaneous refiguration of both life and death**. That is to say through the biopolitical enunciation of the real as species existence (political rationality), and its micro-political practices (governmental technologies). **It is at this point**, Foucault says, that **'racism intervenes' (**2003b: p. 254). **It breaks up the biological continuum, sub-divides the species, according to which forms of life are more fit, more eligible or more disposed to life and which are not; and which are indeed inimical to life and in need of extermination.** Here Foucault says, in addition, that racism enacts the relation of war which templates the modern account of the political: `this relation ("If you want to live you must take lives, you must be able to kill") was not invented by either racism or the modern State. It is the relationship of war' (2003b: p. 255). Enacting the relation of war, the martial imprinting of modern politics in biological terms, **biopolitics differentiates life into categories of living things more and less eligible to live by virtue of the ways in which they live, accounting whether or not that living promotes, diminishes or profoundly threatens species life itself: The fact that the other dies does mean simply that I live** in the sense that his death guarantees my safety; **the death of the other**, the death of the bad race, of the inferior race (or the degenerate, or the abnormal) **is something that will make life in general healthier: healthier and purer.** (2003b: p. 255) **Biopolitics thus enacts a necropolitical audit of living things** in which race functions as a sorting device. Racism is the 'Appel' **which classifies those marked out for biopolitical discrimination, selection, correction and, if necessary, elimination. This necropoliticised peace machine - which runs the gamut from peace-keeping and peace-making to 'operations other than war' and imperial conquest - is the liberal way of war** (Dillon and Reid, 2008).

**Contention Two is Archaeology of Exceptionalism**

**Thus, TJ and I affirm the 1AC as an archaeological criticism of the indefinite detention war power authority of the president of the United States.**

**First, archaeological criticism is the best method to reveal the extra discursive formations at work in maintaining the state of exception**

**Neal 2006**

(Dr Andrew Neal Senior Lecturer Politics and International Relations, School of Social and Political Science University of Edinburgh// Foucault in Guantánamo: Towards an Archaeology of the Exception// [http://sdi.sagepub.com/content/37/1/31.full.pdf+html](http://sdi.sagepub.com/content/37/1/31.full.pdf%2Bhtml) MT

Fourth**, exceptionalism is a much wider problem than can be explained through a genealogical analysis of technologies of power alone, as found in Discipline and Punish,** for example. **Beyond the technologies of exceptional practices themselves, such as torture and detention without trial, exceptionalism raises profound questions about the workings of political principles and discourses.** **How are key political ideas such as liberty and security being used in a discourse of exceptionalism that works to legitimate exceptional practices? How is the problematique of liberty implicated in exceptionalism? How do claims about imperatives and necessities that are more authentic than law find critical purchase? The discourse and practice of exceptionalism cannot and should not be separated into ‘levels of analysis’, but my particular focus on the widespread failure to find critical purchase on the problem of the exception does call for a slant in emphasis towards archaeology**. It must be made clear, however, that archaeology is not concerned exclusively with statements, and genealogy is not exclusively concerned with practices. Emphasising archaeology does not exclude genealogy; they are complementary approaches that largely overlap. As Foucault (2002b: 10–11) puts it, ‘**archaeology is the method specific to the analysis of local discursivities, and genealogy is the tactic which, once it has described these local discursivities, brings into play the desubjugated knowledges that have been released from them’. The critical focus of this project calls for the analysis of discursivities more than it calls for genealogical tactics. As a final cautionary point, a focus on discourse does not mean an exclusive focus on language. The argument presented here is that the problem of the exception, and the way it has been treated critically, raises questions about the role and constitution of subject positions, objects, statements, concepts and strategies** (although not exclusively in the military sense), and **as such the problem is immediately wider than that of discourse understood merely as language**. **Discourse, as Foucault understands it, is a problem of formations of language and concepts, but also of extra-discursive structures, practices and positions of authority. As he makes clear: Of course, discourses are composed of signs; but what they do is more than use these signs to designate things. It is this more that renders them irreducible to the language and to speech. It is this ‘more’ that we must reveal and describe.** (Foucault, 2002a: 54)

**And, our method applied to indefinite detention is key to interrogating the violent exceptionalism of the U.S.**

**Neal 6**

(Andrew School of Politics, International Relations and Philosophy,¶ Keele University, UK. Special Section: Theorizing the Liberty-Security Relation:¶ Sovereignty, Liberalism and Exceptionalism. Foucault in Guantánamo: Towards an Archaeology of the Exception. Pg 31-36 {Shoell})

It is almost as though Guantánamo Bay were the public face of exceptionalism.¶ **We have access to detailed accounts about the camp and its practices from**¶ **former detainees.** We have been fed official pictures of the camp through the¶ media. **Although the happenings inside Guantánamo are carefully guarded,**¶ **the very existence of the camp appears to be for domestic and global public**¶ **consumption. However, we also know that the USA, for example, holds**¶ **thousands more detainees in less publicized locations across the globe.**¶ **Amnesty International** (2005: 4) **estimates that approximately 70,000 detainees**¶ **are held outside the USA. These include 520 in Guantánamo Bay** naval base¶ (plus 234 releases or transfers); **550 in the Bagram and Kandahar** air bases in¶ Afghanistan; **an unknown number of detainees, estimated at scores, in other**¶ **US forward operating bases**; in Iraq, **6,300 in Camp Bucca, 3,500 in Abu Ghraib**¶ **prison, 110 in Camp Cropper, and 1,300 in other US facilities; 40 estimated to**¶ **be held at undisclosed CIA locations worldwide; several thousand held by**¶ **foreign governments at the request of the USA; and 100 to 150 estimated secret**¶ **transfers** (‘renditions’) **of detainees to third countries**.¶ **With this global archipelago of exceptionalism in mind, Foucault’s commitment**¶ **to describing discursive formations in their dispersal is productive**¶ **from the outset.** **The issue of contemporary exceptionalism exploded into**¶ **political discourse in the aftermath of 9/11. One should be wary of identifying**¶ **exceptionalism as the ‘sudden irruption’ in time of an identifiable unity**¶ **of practices. But nor should exceptionalism be described as a continuity** . It is¶ not possible to identify, without a violent degree of reduction or overdetermination,¶ a single, unified discursive practice of exceptionalism in territorial¶ or political space.¶ **If one is to describe a discursive formation of exceptionalism, then it must be**¶ **considered that such a formation is neither a smooth surface nor a unity. One**¶ **must describe the positivity of this discursive formation in terms of the conditions**¶ **of possibility specified by the historical, not philosophical, a priori of**¶ **the archive.** If one is to talk about a discursive formation of exceptionalism,¶ consisting of objects, statements, enunciative modalities, subject positions,¶ concepts and strategies, it can only be to pose the problem, not the unity, of its¶ delineation in space and time. **The discursive formation of exceptionalism is**¶ neither formally identifiable nor philosophically coherent. It is **a terrain of**¶ **contradictions, oppositions, correlations, additions, recurrences, remanences,**¶ **accumulations and complementarities. What is needed is to describe the**¶ **spatio-temporal dispersal of the discursive formation of contemporary exceptionalism.**¶ **This means considering the distribution of objects, statements, concepts**¶ **and strategies across the broken surface of territory, history, politics,**¶ **material practice, techniques of power, theoretical discourses, and public**¶ **debate, to name but a few locations.** **This analysis can never be** comprehensive¶ or **totalizing, only partial.**

**And, the state of exception prevents effective deliberation by causing people to internalize the norms held by those in power-this leads to flawed decisions and policies. Challenging the state of exception is the only way to revitalize discourse**

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I see the state of emergency discourse as negatively impacting upon the principles of democracy in two ways. First, it is clear that the state of emergency discourse inhibited the free debate needed for democracy to work by making dissent more costly. This, pared with the intensive surveillance measures that have been implemented in response to the threat of emergency, has led to a society which is less able to freely engage in open debate about the benefits and disadvantages of the War on Terror, the existence of any real threat, the best ways to respond to that threat, and of the understandable reasons terrorists might have to want to target the United States. The second way in which the state of emergency discourse impacted negatively upon democratic principles is by manufacturing consent among the population for the executive’s policies.160 As Italian scholar Antonio Gramsci explained, the elite power holders in a society are able to control the rest of the population by creating common sense norms that are internalized, embodied and exercised by the people. This internalization means that the people feel that the origins of the norms lay with themselves, instead of with the elite group of power holders. The hegemonic force of these norms coerces the population into consenting to the will of the elite. This is problematic for democracy, as the will of the people is coerced and manufactured by the power holders in the society. Even if the people are allowed to vote and take part in decision making, they will not be representing their own viewpoints and interests, but simply reflecting those of the elite. In my conceptualization of hegemonies and discourses, it is discourse that is created by the power holders, internalized and embodied by the population, and which leads to the manufacturing of consent. The state of emergency discourse is in this aspect no different than any other discourse. What is however unique to the state of emergency discourse, is its effect on the counter-hegemonic force of the people. Gramsci held that in addition to the hegemonic force of the elite, the masses had their own force which could counteract the hegemony of the elite. With this counter-hegemonic force the population could resist and contest the common sense norms they had internalized. But, this was only possible if individuals in society latched onto the counter-hegemonic discourses and used them to explicitly challenge the hegemony. Under the influence of the state of emergency crisis, this counterhegemonic force was repressed. The normal balance between hegemony and counter-hegemony, the balance which gives the people some ability to challenge the oppression of the elite, was disrupted. The state of emergency discourse led to the overwhelming increase of executive power, at the same time that it delegitimized counter-discourses. Thus, as was explained above in section 4.5, lawyers attempting to give voice to counter-hegemonic discourses were criminally prosecuted, disbarred, and publicly attacked for being disloyal to the United States. By disrupting this balance, the population is denied a tool for resisting the coercion of the elite, a tool for a participation in democracy that represents the people’s needs and interests. The negative effects the state of emergency discourse has on democracy – the inhibition of free debate and the manufacturing of consent – have corrupted the US democracy. This is more than an affront to the historic aspirations of the United States; it is a consequence that has implications for the quality of law and both legal and non-legal decision making. In 1982, Irving Janice explained how self-censorship and punishment of dissent makes group decision making prone to diminished objectivity, diminished logic and diminished rationale. He called this phenomenon groupthink.161 Recent research of groupthink has confirmed that highly cohesive groups with strong leaders are most likely to exhibit symptoms of groupthink.162 The state of emergency discourse’s silencing of dissent and promotion of the executive as the sole decision maker thus increases the probability of poor quality decisions. It should come as no surprise then that counterterrorism experts have criticized preventive detention as counter-productive to the goal of preventing terrorism. There is evidence that such measures informed by the state of emergency discourse have led to more radicalization among Muslim populations.163

**And, privilege our analysis over the technologies of risk that mirror the logic of the exception and have empirically created a permanent state of war.**

**Van Munster 04**

(Rens, University of Southern Denmark¶ Department of Political Science Senior Researcher. International Journal for the Semiotics of Law. The War On Terrorism: When The Exception. Pg 141-153. {Shoell})

Following Agamben, this paper has argued that the centrality of the¶ state of exception and the sovereign ban as the non-localisable¶ foundation for the political order are crucial for understanding the¶ war on terrorism, the production of American sovereignty and the¶ production of bare life. **Due to its emphasis on prevention, the war on¶ terrorism institutionalises the state of exception as a permanent¶ aspect of the global order.** In it, **American sovereignty is constituted¶ in a Schmittian sense as much as bare life is subjected to technological¶ processes of risk identification, administration and assessment**.¶ Indeed, in the sense that **prevention calls for a system of social¶ control that envelopes the entire globe, it is best understood as a¶ blurring of the boundaries between inside/outside, domestic/international¶ and peace/war.** The dispersion of surveillance throughout¶ domestic and international society implies that heterogeneous factors¶ and events such as place of birth, religion, travel records, reading¶ records, visa applications and immigration all become part of a¶ cybernetics of control in which risk information is intrinsic to all¶ decisions made on these issues. **Prevention**, then, **is not concerned¶ with the production of something good. Its aim is to repress anxiety¶ through the development of new and better technologies of risk. It¶ does not work towards some utopian goal, but is guided by the¶ principle of apocalypse: ‘‘Risk society is a catastrophic society. In it¶ the exceptional condition threatens to become the norm.’**’34 **The¶ semiotic shift from defence to prevention in American security discourse**,¶ to conclude, **implies that the freedom of human beings is in¶ constantly constrained**, restricted and assessed. Hence, while the¶ battle against terrorism is fought in the name of freedom and¶ democracy, risk management neutralises real democratic participation¶ by classifying groups in categories that affect the chances and choices of people in every-day life. To quote Agamben: ‘‘**A state¶ which has security as its sole task and source of legitimacy is a fragile¶ organism; it can always be provoked by terrorism to become itself¶ terroristic.**’’35

**Finally, state secrecy over indefinite detention is a key factor in sustaining the violent practice-magnifying the need for an archeological approach. Research will always be incomplete when information is purposely excluded. Framework is the symbolic equivalent of the physical violence exercised by the state to silence its captives.**

**Pugliese 2013**

[Pugliese, Joseph Associate Professor of Cultural Studies at Macquarie University. *State Violence and the Execution of Law: Biopolitcal Caesurae of Torture, Black Sites, Drones*. 2013; Law and the Postcolonial//BlackMagic]

¶ **The work that unfolds** in the chapters that follow **is inscribed by a constitutively incomplete scholarship**. **This incompleteness is not due to the standard limitations** **imposed by time, word length and the other practical exigencies that impact on the process of scholarly research.** Rather, this incompleteness is constitutive in quite another way. **It is an incompleteness determined by the power of the state to impose fundamental omissions of information through the redaction of key docu­ments, through the legal silencing of its agents and through the literal obliteration of evidence.** These are all techniques of foreclosure that establish the impossibility of disclosure. In rhetorical terms, **the redactions that score the legal texts that I examine operate as aposiopetic figures**; figures **that**, in keeping with Greek etymology of the term, **demand the keeping of silence. In their liquidation of linguistic meaning, they establish voids of signification. Through the process of institutionalized censorship, they order into silence the voices of those subjects who might proceed to name the violence they perpetrated**, **while** also **nullifying the voices of the tortured**. **As rectilinear bars of blackness, the redactions that score the state's declassified texts occlude the victims of state violence even as they neatly geometrize the disorder of torn flesh and violated bodies.** **The slabs of redaction encrypt the disappeared victims of torture in their textual black coffins**. As such, **they graphically exemplify the obliterative violence of law.**¶ ¶ **These aposiopetic tracts are the textual and symbolic equivalent of the physical violence that is exercised by the state in order to silence its captives.** Perhaps **the most graphic incarnation of this transpired at Guantanamo**, **where a detainee, after an interrogation session, 'began to yell**) (in Arabic: **"Resist, Resist with all your might."** ""\* The Interrogation Control Element Chief for Joint Task Force 170# GTMO ordered the detainee to be silenced with duct tape. In their Summarized Witness Statement, an unnamed agent recounts what they witnessed: 'When I arrived at the interrogation room, I observed six or seven soldiers (or persons I believed were soldiers) laughing and pointing at something inside the room. When I looked inside I noticed a detainee with his entire head covered in duct tape . . . When I asked how he planned to take the tape off without hurting the detainee (the detainee had a beard and longer hair) [redacted] just laughed.'10 **The reduction of the detainee to a figure of bondage — short-shackled to the floor and manacled - is not adequate in confirming his status as captive.** **His face and voice, evidence of his human status, must be physically redacted**. The taping of his entire head transmutes him into a faceless paper-mache mannequin. **Even the most minimal sign of resistance, such as the exercise of the voice, must be subju­gated. The corporal economies of torture oscillate between the exercise of violence in order to extort confessions from broken bodies finally rendered docile and the exercise of violence to silence those insurgent bodies that refuse the order to be silent.** The duct taping of the head of the detainee emblematizes the deployment of two violent modalities of torture: instrumental and gratuitous. Instrumental violence is produced by the direct application of tools and technologies — such as cables, pliers, electrodes and so on - onto the body of the victim in order to inflict pain. In this case the duct taping of the detainee's entire head directly produces a terrifying sense of asphyxiation. Gratuitous violence is a type of supplementary violence that results indirectly, after the fact of the application of instrumental violence. In this instance, the instrumentalized application of duct tape was prin­cipally driven by the desire to silence and subjugate the detainee. The ripping off of the duct tape and the tearing of his hair and beard will generate a violence that is wanton, augmenting the pain of having one's facial apertures sealed up. **The end result is to confirm the detainee's status as subjugated object of violence**. **The** US **government's power to withhold or destroy information runs the full gamut of censorial practices - from the ludicrous to the indefensible.** The CIA, for example, has exercised an impressive commitment to linguistic probity by insisting on the redaction of such disturbing terms as 'rot,' 'shithole' and 'urinal' from the testimony of one its former interrogators."" **It has also overseen the wholesale destruction of 92 videos that document the torture practices inflicted on their victims; torture practices that allegedly 'went even beyond those approved by the expansive Yoo and Bybee Torture Memos.'**10' **These censorial practices have fundamentally** determined the very material conditions of possibility of my research. They have **produced a complex textual field inscribed by gaps, silences and the contingent fragments of knowledge that have managed to enter the public domain despite the censorial power of the state.** And I refer here to the extraordinary work of individuals - such as Bradley Manning, who is himself now a victim of the state's punitive regime of cruel and degrading punishment - or organizations, such as WikiLeaks, that have defied the censorial power of the state in order to make public texts that document the full extent of the state's violent practices and that compel its witnesses to call it to account**. The work of these** whistle-blowers and **activists evidences the fact that the state is not an impervious monolith of repressive power but** that, on the contrary, **much as it strives to be unilateral in its actions and monologic in its enunciations, the state cannot completely master its heterogeneous agents or silence its heteroglossic voices**.