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### Contention One: Exclusion of the Outlaw

#### WE BEGIN WITH AL-AWLAKI TARGETED BY HIS GOVERNMENT FOR BEING AN OUTLAW, HOWEVER HISTORY SHOWS A LONG PRECEDENT OF THE STATE HUNTING THE OUTLAW

Chong 12

[Jane Y. Chong, Yale Law School, JD 2014; Duke University, BA 2009, “Targeting the Twenty-First-Century Outlaw”, December, 2012, Yale Law Journal, 122 Yale L.J. 724, Google Scholar, \\wyo-bb]

On September 30, 2011, when drones fired Hellfire missiles at his convoy in Yemen, Anwar al-Awlaki did not become the first American citizen to be successfully targeted by his own government for execution without a trial. He became the first citizen known to be so killed abroad as part of the CIA's covert counterterrorism operations. (2) As a general matter, government-sanctioned execution without trial is not a novel practice. Under the common law judgment of outlawry, a penalty "as old as the law itself," (3) a fugitive fleeing summons or indictment for a capital crime such as treason could be killed instead of captured on the theory that individuals unwilling to subject themselves to the judgment of the law could not avail themselves of its protections. A number of authorities have incorrectly asserted that outlawry, a legal weapon of critical importance for centuries in England, (4) "has never been known on this side of the Atlantic." (5) In fact, outlawry was practiced in the American colonies and remained in force as a criminal sanction in a number of states well after the ratification of the Constitution. North Carolina put its outlawry statute into occasional use until as late as 1975. (6) In the context of modern terrorism, however, the term "outlawry" has been used loosely to refer to terrorist movements or state counterterrorism activities that operate outside a cognizable legal regime or violate established legal norms. (7) On the rare occasion when outlawry has been invoked as a legal sentence, it has been disparaged as the Western equivalent of the Islamic fatwa and as the barbaric analogue to current targeted killing practices. (8) In contrast, this Note examines the historical use and legitimacy of outlawry as a court-issued judgment. (9) My central argument is that the theory and past practice of outlawry provide helpful principles for narrowly crafting due process protections for prospective targets who are U.S. citizens. (10) Properly implemented, these protections would prevent their targeted killing from amounting to extrajudicial execution. (11) The extraordinary circumstances of Awlaki's killing could not more clearly attest to the need for an extraordinary mechanism by which citizens accused of terrorism can be guaranteed an opportunity to partake in the legal process. One year and one month before the CIA-led drone attack on Awlaki and fellow American-born radical Samir Khan, (12) Awlaki's father sought unsuccessfully to enjoin the government from killing his son. (13) Nasser al-Aulaqi (14) claimed that the rumored targeted killing program violated both his rights and his son's rights under the Constitution and international law. (15) In its opposing brief, the Obama Administration refused to confirm or deny the existence of such a state-sponsored program but nevertheless objected to the requested injunction as an "unprecedented, improper, and extraordinarily dangerous" interference with the President's military powers. (16) Judge Bates of the U.S. District Court for the District of Columbia ruled that the Executive's targeting determinations fall outside the courts' purview. This had the practical effect of permitting the Executive to kill Awlaki without judicial intervention, irrespective of whether the killing constituted a denial of due process. (17) But the controversial decision also contained the intuition that informs this Note. Judge Bates declined to grant Awlaki's father standing as Awlaki's next friend, declaring that "no U.S. citizen may simultaneously avail himself of the U.S. judicial system and evade U.S. law enforcement authorities." (18) Judge Bates's reasoning suggests that even under modern precepts, a citizen's access to the legal system and his rights under that system are--or should be--predicated on his recognition of his obligations under that system. The alternative would be to permit the alleged citizen-terrorist to exercise his legal rights even while refusing to submit to the legal system that affords those rights, turning the law into his shield while denying the government the use of the law as a sword. It is perhaps an unwillingness to accept this alternative, one that renders the government captive to its own legal process, that informs the Obama Administration's targeted killing policy. That policy is part of an aggressive counterterrorism agenda that has, by all media accounts, "baffled liberal supporters and confounded conservative critics alike." (19)

#### IN FACT THE DOJ JUSTIFIES THE EXTRA JUDICIAL KILLING THROUGH THE DECLARATION OF IDENTITIES AS AN OUTLAW

Cole 13

[Juan Cole, Public intellectual, prominent blogger and essayist, and the Richard P. Mitchell Collegiate Professor of History at the University of Michigan, 02/06/2013, “Top Five Objections to the White House’s Drone Killing Memo”, <http://www.juancole.com/2013/02/objections-houses-killing.html>, \\wyo-bb]

NBC’s Michael Isikoff has revealed the text of a white paper composed for Congress by the Department of Justice that sheds light on the legal arguments made by Eric Holder in justifying the killing by drone strike of Americans abroad, who are suspected of belonging to al-Qaeda. That the memo did not even require that the US know of a specific and imminent plot against the US, of which the al-Qaeda member was guilty, for it to kill him from the skies, alarmed all the country’s civil libertarians. Here are five objections to the vision of the memo, which it seems to me is directly contrary to the spirit and the letter of the US constitution. It is contrary in profound ways to the ideals of the founding generation. 1. In the Western tradition of law, there can be no punishment without the commission of a specific crime defined by statute. The memo does not require that a specific crime have been committed, or that a planned criminal act be a clear and present danger, for an American citizen to be targeted for execution by drone. 2. To any extent that the president’s powers under the memo are alleged to derive from the 2001 Congressional Authorization for the Use of Military Force, i.e. from the legislature, they are a form of bill of attainder (the History Learning Site explains what that is here): “A bill, act or writ of attainder was a piece of legislation that declared a person or persons guilty of a crime. A bill of attainder allowed for the guilty party to be punished without a trial. A bill of attainder was part of English common law. Whereas Habeus Corpus guaranteed a fair trial by jury, a bill of attainder bypassed this. The word “attainder” meant tainted. A bill of attainder was mostly used for treason . . . and such a move suspended a person’s civil rights and guaranteed that the person would be found guilty of the crimes stated in the bill as long as the Royal Assent was gained. For serious crimes such as treason, the result was invariably execution.” What, you might ask, is wrong with that? Only that it is unconstitutional. Tech Law Journal explains: “The Constitution of the United States, Article I, Section 9, paragraph 3 provides that: “No Bill of Attainder or ex post facto Law will be passed.” . . . “These clauses of the Constitution are not of the broad, general nature of the Due Process Clause, but refer to rather precise legal terms which had a meaning under English law at the time the Constitution was adopted. A bill of attainder was a legislative act that singled out one or more persons and imposed punishment on them, without benefit of trial. Such actions were regarded as odious by the framers of the Constitution because it was the traditional role of a court, judging an individual case, to impose punishment.” William H. Rehnquist, The Supreme Court, page 166. The form of the AUMF, in singling out all members of al-Qaeda wherever they are and regardless of nationality or of actual criminal action, as objects of legitimate lethal force, is that of a bill of attainder. Congress cannot declare war on small organizations– war is declared on states. Such a bill of attainder is inherently unconstitutional. 3. The memo’s vision violates the principle of the separation of powers. It makes the president judge, jury and executioner. Everything is done within the executive branch, with no judicial oversight whatsoever. The powers the memo grants the president are the same enjoyed by the absolute monarchs of the early modern period, against whom Montesquieu penned his Spirit of the Laws, which inspired most subsequent democracies, including the American. Montesquieu said: “Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression. There would be an end of everything, were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals. Most kingdoms in Europe enjoy a moderate government because the prince who is invested with the two first powers leaves the third to his subjects. In Turkey, where these three powers are united in the Sultan’s person, the subjects groan under the most dreadful oppression. Ironically, given contemporary American Islamophobia, the Obama administration has made itself resemble not the Sun-King, Louis XIV, who at least did have a court system not completely under his thumb, but rather, as Montesquieu saw it, the Ottoman sultans, who he claimed combined in themselves executive, legislative and judicial power. (Actually the Muslim qadis or court judges who ruled according to Islamic law or sharia were also not completely subjugated to the monarch, so even the Ottomans were better than the drone memo). 4. The memo resurrects the medieval notion of “outlawry”– that an individual can be put outside the protection of the law by the sovereign for vague crimes such as “rebellion,” and merely by royal decree. A person declared an outlaw by the king was deprived of all rights and legal protections, and anyone could do anything to him that they wished, with no repercussions. (The slang use of “outlaw” to mean simply “habitual criminal” is an echo of this ancient practice, which was abolished in the UK and the US). I wrote on another occasion that the problem with branding someone an “outlaw” by virtue of being a traitor or a terrorist is that this whole idea was abolished by the US constitution. Its framers insisted that you couldn’t just hang someone out to dry by decree. Rather, a person who was alleged to have committed a crime such as treason or terrorism had to be captured, brought to court, tried, and sentenced in accordance with a specific statute, and then punished by the state. If someone is arrested, they have the right to demand to be produced in court before a judge, a right known as habeas corpus (“bringing the body,” i.e. bringing the physical person in front of a judge).

#### THE EXCLUSION OF THE OUTLAW IS A CENTRAL FUNCTION OF MODERN POLITICS—DESTRUCTION OF TERRORISTS AND INDEFINITE DETENTION ARE EXAMPLES OF THE EXCLUSION OF DEMONIZATION OF OUTLAWS THAT EMBODIES POLITICS TODAY—THIS EXPOSES THE LIMITS OF DEMOCRATIC AND POLITICAL COMMUNITIES MARKING THE POINT WHERE VIOLENCE BECOMES POSSIBLE AND BIOPOLITICAL CATASTROPHE BECOMES INEVITABLE

Bunch, 2010

[Mary, PHD in philosophy at the University of Western Ontario, OUTLAWRY AND THE EXPERIENCE OF THE (IM)POSSIBLE: DECONSTRUCTING BIOPOLITICS, Doctoral Thesis] /Wyo-MB

The deconstructive logic of outlawry is ancient. The sovereign proclamation of outlawry – Wargus Esto, in Frankish law, or “become a wolf” – was a common legal penalty from the archaic period through the Middle Ages that tied sovereign power to its own undoing. The post-human politics of twentieth-century post-structuralism was thus anticipated hundreds of years earlier in a figure who challenged the law from the outside, not as a subject, but as liminal creature suspended between human and beast. This post-human figure is both a werewolf and an outlaw. In the wolf ban the law is constituted by what challenges it; as recourse to this challenge, the law is dissolved with respect to the offender in order to preserve itself; but it can never completely preserve itself. By banishing its challengers instead of killing or rehabilitating them, the sovereign reduces the outlaw to absolute vulnerability and exposure to death, but also ensures its own mortality. Outlawry exposes the law’s inability to be at one with itself, its fundamental insecurity, its undecidability, and its dependence on force to come into being and maintain itself. Yet outlawry is the non-presence that allows the law to begin its presencing. What is outside of the law is included in the law: even as the outside is severed from the inside – it is nonidentical to it, exterior to or excluded from it – it is nevertheless joined to it by the very limit that defines it as other. Outlawry is always already present as the law’s deconstructive double: it is fundamental to the law’s structure as a performative force. By refusing to allow the law to be final or complete, outlawry keeps the political system from stagnating. The law must continually transform as its context changes, or it will be replaced with a new law. In transformation or revolution, for better or for worse, this alterity is derived from outside of the law. Outlawry is persistent in its presence (as a nonpresence), and in its promise and threat to the law.But it seems as if in modernity, outlawry has a new logic; one that conserves the law instead of ensuring the law’s difference from itself. Giorgio Agamben points to the dangers of this modern mode of outlawry in Homo Sacer. Outlawry structures Agamben’s vision of biopolitics: sovereignty, which today takes life itself as its object,164depends on forces outside of the law for the foundation and conservation of its power (the sovereign’s decision on the exception comes from outside of the law). As such, modern sovereignty, even in democratic states, is a totalizing force that encloses its outside. In this extra-legal state, everybody becomes an outlaw of sorts as they suffer a withdrawal of legal rights and protections. Citizens are no longer subjects capable of political action, but instead are abjected and exposed to death. This double mode of outlawry is the legacy of the camps. Agamben writes:[t]here is no return from the camps to classical politics...[T]he possibility of distinguishing between our biological body and our political body...was taken from us forever. And we are not only, in Foucault’s words, animals whose life as living beings are at issue in their politics, but also—inversely—citizens whose very politics is at issue in the natural body.” (188)Western metaphysics, politics, medico-biological sciences and jurisprudence are together implicated in a state of affairs that brings us to the edge of “an unprecedented biopolitical catastrophe” (188) as bare life (life that is excluded from the law) becomes the object of the law (a law that preserves its power by suspending itself in relation to the life that it excludes).There is something compelling in Agamben’s dark vision, in which exposure to death seems to enter the very core of life, infiltrating every aspect of social and political life in a new kind of totalitarianism. His diagnosis of the modern political condition as an indefinite state of exception populated by homo sacer, while cynical, seems to hit the mark, whether one is considering the post 9-11 global ‘war on terror,’ or biotechnology. Whether it is in the decision to cease life-preserving treatment, or to deem someone a terrorist or “unlawful enemy combatant” and detain them without the protection of the usual legal rights, the suspension of the law in relation to some lives changes the law’s relation to all human life. In Agamben’s analysis this new relation – what he defines as biopolitics–takes the structure of the archaic ban, the proclamation of outlawry that inaugurates sovereignty by excluding the outlaw. In this view, the ban does not deconstruct sovereignty, it preserves it. For Agamben, outlawry serves two functions. It165guarantees the total indivisible power of the sovereign, while in the case of the subject, outlawry constitutes an erasure of agency and exposure to death (the banned individual enters a liminal space between human and beast, and as such can be killed but not sacrificed). In effect, for Agamben the reappearance of outlawry as biopolitics encloses all forms of modern sovereignty in a form of totalitarianism.However, it is not outlawry that traps modernity in the logic of the camps, nor is it a return to some ‘normal’ situation that saves us from fascism. This was Walter Benjamin’s message, a message that often seems to go unheard, although it is obvious to those who are outside of the law: fascism is the normal situation. The fact that this has not changed in the six decades following the Shoah, but rather expanded to secretly structure even liberal democracies, as Agamben argues, is cause for significant concern. We cannot rid ourselves of outlawry in the political sphere. To ban outlawry, if such a thing were logically possible, would only intensify the biopolitical catastrophe because it would foreclose the law’s difference from itself, its capacity to transform, while to welcome only outlawry would surely invite chaos. Indeed, there must be law. Yet the solution is not a foreclosure of the outside of the law. Agamben creates a very compelling sketch of the problem when outlawry is taken up in biopolitics, but he forgets the challenge that outlawry poses to sovereignty, missing the deconstructive relation outlawry maintains with the law. A mimetic switch complicates the biopolitical situation, deconstructing biopolitics itself and reversing the significance of outlawry to sovereignty and subject. Sovereignty is exposed to its own annihilation, as Derrida surmises in Rogues, it has finally undone itself; it has lost all meaning (101). And the subject, exiled from the law, tastes its unmediated freedom (ipseity), glimpses the law’s mystical authority, and celebrates the possibility of a new law, if only for a suspended instant.

#### THIS USE OF IDENITITY IN THE POLITICAL AND PERSONAL HAS THREE IMPACTS:

#### FIRST, THE EXCLUSION AND ELIMINATION OF THE OUTLAW IS PART OF THE ATTEMPT TO PRODUCE A SINGLE AND UNIFIED PEOPLE UNDER THE LAW—THIS PROJECT RESULTS IN THE FINAL SOLUTION

Agamben, 2000

[Giorgio, Means without ends: notes on politics, Pg 33-35] /Wyo-MB

If this is the case-if the concept of people necessarily contains within itself the fundamental biopolitical fracture-it is possible to read anew some decisive pages of the history of our century. If the struggle between the two peoples has always been in process, in fact, it has undergone in our time one last and paroxysmal acceleration. In ancient Rome, the split internal to the people was juridically sanctioned by the clear distinction be- tween populus and plebs- each with its own institutions and magistrates-just as in the Middle Ages the division between artisans [popolo minuto] and merchants [popolo grasso] used to correspond to a precise articulation of different arts and crafts. But when, starting with the French Revolution, sovereignty is entrusted solely to the people, the people become an embarrassing presence, and poverty and exclusion appear for the first time as an intolerable scandal in every sense. In the modern age, poverty and exclusion are not only economic and social concepts but also eminently political categories. (The economism and "socialism" that seem to dominate modern politics actually have a political, or, rather, a biopolitical, meaning.) From this perspective, our time is nothing other than the methodical and implacable attempt to fill the split that divides the people by radically eliminating the people of the excluded. Such an attempt brings together, according to different modalities and horizons, both the right and the left, both capitalist countries and socialist countries, which have all been united in the plan to produce one single and undivided people-an ultimately futile plan that, however, has been partially realized in all industrialized countries. The obsession with development is so effective in our time because it coincides with the biopolitical plan to produce a people without fracture. "When seen in this light, the extermination of the Jews in Nazi Germany acquires a radically new meaning. As a people that refuses integration in the national body politic (it is assumed, in fact, that its assimilation is actually only a feigned one), the Jews are the representatives par excellence and almost the living symbol of the people, of that naked life that modernity necessarily creates within itself but whose presence it is no longer able to tolerate in any way. We ought to understand the lucid fury with which the German Volk- representative par excellence of the people as integral body politic- tried to eliminate the ]ews forever as precisely the terminal phase of the internecine struggle that divides People and people. With the final solution-which included Gypsies and other unassimilable elements for a reason-· Nazism tried obscurely and in vain to free the Western political stage from this intolerable shadow so as to pro- duce finally the German Volk as the people that has been able to heal the original biopolitical fracture. (And that is why the Nazi chiefs repeated so obstinately that by eliminating Jews and Gypsies they were actually working also for the other European peoples.)

#### SECOND, THE CLEANSING OF NEGATIVITY FROM IDENTITIES AND DIFFERENCE BREEDS RESSENTIMENT

Tubbs 05

[Nigel Tubbs, Principal Lecturer at University College Winchester, “Nietzsche, Zarathustra and Deleuze”, Journal of Philosophy of Education, Vol. 39, No. 2, 2005, Chapter 7, http://exordio.qfb.umich.mx/archivos%20pdf%20de%20trabajo%20umsnh/aphilosofia/educaci%C3%B3n%20filosofia/chapter7.pdf, \\wyo-bb]

In Nietzsche and Philosophy, Deleuze claims that there can be ‘no possible compromise between Hegel and Nietzsche’ (Deleuze, 1983, p. 195). Later, in Difference and Repetition, he afﬁrms his philosophy of afﬁrmation as part of ‘a generalized anti-Hegelianism’ that includes ontology, structuralism and the discovery of ‘ﬁelds of a power peculiar to repetition . . . [in] the unconscious, language and art’ (Deleuze, 1994, p. xix). Central to this thesis are his observations that difference and repetition have taken the place of the identical and the negative, of identity and contradiction. For difference implies the negative, and allows itself to lead to contradiction, only to the extent that its subordination to the identical is maintained. The primacy of identity, however conceived, deﬁnes the world of representation (ibid.). Deleuze stakes himself in the claim that ‘modern thought is born from the failure of representation, of the loss of identities’ and of the collapse of representation into simulacra. Identity is only simulated, ‘produced as an optical ‘‘effect’’ by the more profound game of difference and repetition’ (ibid.). The continued subjection of difference to the identity, or to the concept of the same, ‘seems’ (p. 262) to mean that difference only becomes thinkable ‘when tamed’ by the four ‘iron collars of representation’, namely: identity, opposition, analogy and resemblance (ibid.). Even, or especially, in Hegel where difference is pushed ‘to the limit’ (p. 263), the path is ‘a dead end’ (ibid.) which ultimately brings it back to identity—the very condition upon which the examination of difference was allowed to proceed. Thus, representation is ‘a site of transcendental illusion’ (p. 265) which takes four interrelated forms of the subordination of difference: under the identity of the concept, under resemblance, under the negative and under the analogy of judgement. If Hegel is the high point of the history of a ‘long perversion’ (p. 164), then ‘something completely new begins with Kierkegaard and Nietzsche’, a ‘theatre within philosophy’ in which the ultimately static concept of mediation is replaced by ‘movement’ which can affect the mind ‘outside of all representations’. Finding such ‘immediate acts’ is, therefore, for Kierkegaard and Nietzsche ‘a question of making movement itself a work, without interposition; of substituting direct signs for mediate representations; of inventing vibrations, whirlings, gravitations, dances or leaps which directly touch the mind’. In doing so, they created simultaneously a ‘theatre of the future and a new philosophy’ (p. 8). Leading directly from his presentation of afﬁrmation in Nietzsche and Philosophy, Deleuze reafﬁrms in Difference and Repetition that ‘representation fails to capture the afﬁrmed world of difference’ (p. 55). ‘Representation has only a single centre, a unique and receding perspective, and in consequence a false depth. It mediates everything, but mobilises and moves nothing’ (pp. 55–56). Hegelian movement can only represent ‘the universal’ to ‘everyone’ (p. 52). But ‘there is always an unrepresented singularity who does not recognise precisely because it is not everyone or the universal’. This singularity, who is spoken for does not follow the Hegelian process of synthesis. Rather this ‘sensitive conscience’ subsists in its immediacy, in its difference which itself constitutes the true movement. Difference is the true content of the thesis, the persistence of the thesis. The negative and negativity do not even capture the phenomenon of difference, only the phantom or the epiphenomenon. The whole of Phenomenology is an epiphenomenology (ibid.). Where representation offers only the indeterminate or negation, the philosophy of difference afﬁrms itself in the refusal of these pseudoalternatives. The afﬁrmation of difference is its own essence. This is unlike the yes-saying that agrees to bear difference in order to cleanse it of its negativity. Such asceticism suffers in order to ‘deliver difference up to the identical’ (p. 53). On the contrary, the afﬁrmation of difference is to deny ‘everything which can be denied and must be denied’ (p. 55). It is Nietzsche’s new categorical imperative: deny everything ‘which cannot pass the test of eternal return’. Those who do not ‘believe’ in eternal return will afﬁrm for themselves the epiphenomenon of abstract knowledge. But for those who can deny negative representation, those who can afﬁrm difference in itself, this will ensure that the negative ‘consumes itself at the mobile centre of eternal return. For if eternal return is a circle, then difference is at the centre and the same is only on the periphery: it is a constantly decentred, continually tortuous circle which revolves only around the unequal’. Afﬁrmation has difference as its object, and, therefore, afﬁrmation is multiple. It is difference in itself. Negation is also difference ‘but seen from below’. When we put or leave afﬁrmation in the undetermined, we also put ‘determination in the negative’. Negation, therefore, is only ‘the shadow of the more profound genetic element—of that power or ‘‘will’’ which engenders the afﬁrmation and the difference of afﬁrmation’. Or, put more simply, negation is a form of ressentiment against power, for rather than afﬁrming difference, it offers only epiphenomena as reality. ‘Those who bear the negative know not what they do: they take the shadow for reality, they encourage phantoms, they uncouple consequences from premisses . . .’ (ibid.).

#### **the quest to root out terrorism is an attempt to destroy the different to establish national security in the War on Terrorism—the specter of terrorism is always moving and shifting, so attempts at securitization only create insecurity and violence**

Sciullo 11

[Nick J Sciullo, Teaching at Georgia State University, B.A. from University of Richmond; J.D. from West Virginia University, “The Ghost in the Global War on Terror: Critical Perspectives and Dangerous Implications for National Security and the Law”, April 2011, http://works.bepress.com/cgi/viewcontent.cgi?article=1011&context=nickjsciullo, \\wyo-bb]

The most significant impact on U.S. national security since the September 11, 2001, attacks has been the battle against terror’s ghost. Here I have in mind Gilbert Ryle’s famous skepticism with respect to the mind/body dualism of René Descartes.2’ Ryle argued against the existence of a separate soul that interacts with the biological brain; he labeled this concept the “ghost in the machine.” The ghost I see functions quite differently, although Ryle’s description surely informs my criticism of national security law. This ghost re sides in the fight against terrorism, apart from and within it at once. It is apart from the fight against terrorism in that it has a life of its own apart from anything that could be labeled terrorism. it is terror ism within insofar as it informs the daily struggle against terrorism. Terrorism creates a disconnect from traditional geopolitics or military thinking. It differs from the actions from which laws are generally meant to protect against, while simultaneously influencing di verse fields. This is not to say that the United States should not rightfully concern itself with non-state actors or threats to the home land, which represent clear dangers to U.S. national security. How ever, the all-encompassing fear of terrorism has morphed itself into a battle against the unlocated specter of terrorism’s reality. In this regard, the United States is battling ghosts. The aspect of absurdity in this battle is not surprising. Many modern critical perspectives on philosophy have found it impossible to reduce complex social phenomena to reason-laden formulas.24 The idea of reducing terrorism to a simple definition is further complicated when, as Jacques Derrida describes, “every terrorist in the world claims to be responding in self-defense to a prior terrorism on the part of the state, one that simply went by other names and covered itself with all sorts of more or less credible justifications.” Yet, it is not possible to confine the question of definitional success solely to critical perspectives. The law also struggles to define terrorism, encountering difficulty in synthesizing conflicting definitions.27 Terrorism law does not have the constraints of patent law or tax law, which although complex, are not as subject to the terse battle of definitional adequacy in defining problems and excluding non- germane legal considerations. Lack of definitional certainty also makes prosecuting terrorists difficult, as the procedures for a criminal defendant differ from those required for a military adversary.’ This inability to define terrorism makes it difficult to engage terror ism constructively by forcing us to battle an ephemeral specter. Without a firm base upon which to build a legal regime to address non-state actors that engage in terrorism, law is bound to fail. Defining terrorism (and its extrapolations) is complicated because of its nature as a supercharged political act.3° This is more than the notion that every rhetorical act is political. To define something as terrorism is to politically assign values, and it results in constructing the terrorist as Other. Defining terrorism is a political act that de mands the oppressive politics of Otherization. Because the law thrives on definitions and on knowing precisely what something is and is not, the abundance of definitions of terror ism complicates rather than complements dialogue.3’ From the birth of the “war on terror” —first spoken into existence by President George W. Bush on September 20, 200132—the United States has had immense difficulty grappling with the precise parameters of terror and what exactly a war against it entailed. The 2002 National Secu rity Strategy (NSS) defined the enemy as terrorism, as both a set of political/paramilitary exercises and a loose ideological paradigm.33 Fighting ideas on the battlefield is a difficult task; it is compounded by a disembodied enemy. The 2006 NSS did not do much to rectify the matter when it de clared “militant Islamic radicalism” the enemy. This definition limits terrorism to an expression of a particular form of religiosity. Fur ther complicating national security policy post-September 11 is the conflation of Muslims with terrorists and Islam with terrorism. All Muslims are not the same35 (nor are they Arab for that matter)?6 While it seems almost comical to make this observation, it is a necessary clarification. The terms used in law, politics, and international relations carry with them important connotative baggage, and we risk straying into dangerous ground if we stand idly by as words are deployed in a disingenuous fashion. Viewed as described by the NSS, the United States is engaged in a war against an idea as opposed to a state or people. This type of war is not new but has not been declared in very recent history. Lyndon Baines Johnson’s War on Poverty37 and Richard Milhous Nixon’s War on Drugs were both wars against ideas. These occurred against the backdrop of the Cold War, which presented an exciting tussle against the specter of communism. Those efforts have been met by too much criticism to recount completely in any essay or article. To fight a war against an idea is a difficult policy to maintain and execute effectively. The GWOT is wrought with more difficulty because it lacks the geographical linkage that the War on Drugs, the War on Poverty (both anchored in the United States), and the fight against communism (directed against the Soviet Union) possessed. To be sure, one might consider the GWOT a fight against state- sponsored terror, but if this idea is true, then why have we not seen extensive military activity in Saudi Arabia?’° The GWOT is a battle against abstraction. It knows neither its ob jectives nor its enemy. It cannot be quantified in terms of enemies defeated or captured. François Debrix notes: The war on terror, in its many inceptions (against al-Qaeda, against the Taliban, against Saddam Hussein, against Sunni insurgents in Iraq), is a violent rejection of the unthinkable and the intolerable. It is a revulsion against something (which the USA calls terror or evil) that does not make sense, that was/is still horrifying, that allegedly comes from elsewhere (although it was and may still be within us). It is also a revulsion that cannot be identified as a traditional object of geopolitics (a network, fleeting enemies whose leaders may or may not be dead, insurgent groups with multiple affiliations, masters of terror, a religion, a whole civilization As such, the GWOT is decidedly outside the realm of traditional geopolitics. This makes it difficult for actors practicing traditional geopolitics to engage the mission effectively. A psychological dimension is also imputed, as it is unclear what, or whom, we are fighting. This plays out on several levels: (1) the impact of the tragedies terrorism inflicts,42 (2) the psychological impact of fear, and (3) the intellectual justification for a war against an enemy that cannot be located.” The fact that the United States remains unable to spot the evil specter, but nonetheless continues to fear it, shows that the driving revulsion against the idea of terrorism has subsumed ra tional thought. The fact that the GWOT lacks not only a clear enemy but also a specific geographic location necessitates a war that consumes all re sources and all locations to achieve its objectives. Without some limiting terrain (literally a place in which militaries can engage an en emy), there is no ability to cordon off the parameters of war. This lack of geographical locus for the current conf lict has caused a po litical paralysis of sorts. Without a physical space to challenge the GWOT, the United States risks falling into the de-territorialized space against which it is fighting. The political discourse needs a physical space, whether in a country, a classroom, or the halls of Congress. This de-territorialization renders people unable to politically engage their world. What remains for the United States is a war that risks floating away from policy towards fantasy. In this war against terrorism, we become constantly immersed in terror. This very much stems from our inability to see the ghost and to engage in substantive policy with definitions, parameters, and certainty that resist at least ele mentary scrutiny. As David Fraser notes, “the primary goal of ter- rorism is to terrorize, and people are terrorized when their base of meaning, their hermeneutic vision of the world, is upset, decon structed, and put into question.” We live in perpetual terror while we desperately seek to fill the void left by terrorism — the void of the absence of meaning. Terrorism is unmoored from understanding. and the tension between practice and thought creates a void where terror finds a welcome port. The ghosts are ever present and our fear ever increasing. Terror has taken hold of us.’ The result is our destruction’ at the hands of fear and irrational hatred of the un known. We are in danger of this transformation as we progress from fighting a war with objectives to being consumed by the activity we claim to abhor.49 Our national security strategy makes us less secure as it becomes indistinguishable from the very concept it sought to obliterate.50 We are then the object of our hatred and the very terror we try to prevent. The true danger of an undefined and ill-conceived war is that we become victims. National security is not the only area of socio political significance where this phenomenon occurs. For example, those who fear authoritarian government can become so intense in their struggle that it becomes authoritarian, and they become vic tims of authoritarianism just as they seek to resist it. Divisive envi ronmental issues, gun control, and abortion see similar processes where the evils of the opposing side become the characteristics of those arguing. For example, opposition to a government that plays a large role in a number of issue areas may at first start off as a call to reduce the size of government. After an initial push to shrink government, proponents may then feel the need to institute their reforms with such fervor that the control they exercise becomes more absolute. The quest to shrink government may involve creating an even larger apparatus to implement this shrinkage. Often movements against something, if they succeed, fill the void with some equally problematic apparatus. The politics of terror become the politics of war.5’ Because there is no way to combat terror, no place to find it, and no way to end it, we must root it out, and the only way to do so is violently. The logic of traditional geopolitics has failed. At this point, other outcomes have become impossible. The fantasy becomes the new focus of policy. This policy moves us further away from national security and closer toward national insecurity. Debrix notes: Deeply ensconced in this costly condition of abjection, the USA’s search for meaning since 9/11 has been narrowed down and impoverished. Kaplan, Hanson, 1.edeen, and those in US foreign policy and geopolitical circles who agree with their views, have reduced the USA’s quest for meaning to a desire (construed as the desire of the entire nation) always to remain one with the terror and war. Short of any visible and viable alternative, the only practical option of fered by these masters of the abject is for the USA to continue to expand its search for more destruction and violence. War and terror, then, have become the finality, the only possible outcome.52 This abjection is a condition that is both within and beyond the individual subject. The space of abjection is that position between the subject of the terrorist/freedom fighter/dissident and the idea of terrorism. Abjection is a search for meaning where meaning seems unthinkable.5 This search is great in the discussion of terrorism, and in the end, it is what powers terrorism. It is rejection of the self while establishing the self. In this untenable position, fear is replicated along the borderlines of identity so that the quest against terror in stills the fundamental terror it opposes.55 It is in this abjedion that we are doomed to annihilation in our quest for meaning. We are drawn out of ourselves, and thus, we reinforce the fantasy.

#### FINALLY, THE LAW USES STATIC IDENTITY AS A TOOL TO TOTALIZE IDENTITY. THE ONLY WAY THE LAW CAN RECONCILE THE DIFFERENCES BETWEEN THESE TOTALIZED IDENTITIES IS THROUGH VIOLENCE, MAKING WAR INEVITABLE. ONLY SOLUTION IS THE METHOD OF BECOMING

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If ethics and politics are separate, there also must be a separation, for Levinas, between the political subject and the ethical subject. A political subject would be an identity-based133subject, a subject-in-common, whereas an ethical subject is an other among others. Already there is some disruption of the political field when the subject is divided in this way, for neither commonality, nor subjection to the sovereign, are any longer a requirement for the agency of a subject who is split between their political being and ethical being. Of the ethical subject Levinas writes: “Subjectivity realizes these impossible exigencies – the astonishing feat of containing more than it is possible to contain.... subjectivity [is] welcoming the Other, as hospitality; in it the idea of infinity is consummated” (27). Ethics, in other words, is an openness to exteriority. But can a political subject open toward the Other? It seems this openness only happens in the ethical, and not the political sphere. The ethical relation, it follows, transcends the law, because the law, as an aspect of politics, invokes identity and erases difference, indeed it must, of we are to achieve ‘equality before the law.’ But this transcendence is not an ‘outlaw’ event, at least not prior to deconstruction, since it does not seem to exist in relation to law and politics at all.In a conversation with Derrida, recalled in Adieu Emmanuel Levinas, Levinas describes his ethical approach as a matter of theology: “You know, one often speaks of ethics to describe what I do, but what really interests me in the end is not ethics, not ethics alone, but the holy, the holiness of the holy” (4). A kind of transcendental disruption of politics is thus possible, but the disconnect between ethics and politics diminishes the political usefulness of ethics as a concept, as Simon Critchley elaborates in Five Problems in Levinas’ View of Politics. According to Critchley, Levinasian politics, in accordance with the Schmittian friend/enemy divide, is derived from the antagonism between friends and enemies. His ethics, however, is shaped by monotheism and a concept of fraternity that contradicts this division, for on an ethical level “all humanity is my friend and no one is my enemy,” as Critchley phrases it (174). In other words, humanity is a spiritual fraternity mediated through the presence of God.This separation, which aligns politics with totalitarianism and ethics with theology, does not bode well for our political life. The ideal transcendence of the face-to-face encounter is impossible in the plurality of beings that comprise the political sphere. Politics is the regulation of chaos, the imposition of order on disorder: there is no outside. We are134political when we find ways to manage our relation to each other, so the political is always a mediation. Levinas calls it le tier, the third party. In contrast to ethics, the third- party relation refers specifically to law and the state, which tend always toward totalization. Third-party relations are always already ethically unjust because they are unable to account for the specificity of the face-to-face encounter, and must generalize for the good of all citizens. As a consequence of this unifying function, Levinas equates the political with violence and war. Politics is “the art of foreseeing war and of winning it by every means ... the very exercise of reason. Politics is opposed to morality, as philosophy is to naiveté” (TI 21). As he continues Levinas links war, and implicitly politics and political subjects, to totalization: “The visage of being that shows itself in war is fixed in the concept of totality, which dominates western philosophy. Individuals are reduced to being bearers of forces that command them unbeknown to themselves. The meaning of individuals (invisible outside this totality) is derived from the totality” (21-2). Thus for Levinas it is not possible to be a political actor without being complicit with the forces of totalization. Levinas puts ethics to the task of re-constituting political space by repeatedly interrupting all claims at totalization, including those hidden in liberal concepts of freedom and autonomy, as Critchley points out in Ethics and Deconstruction (223). In other words, the role of ethics in relation to the violent and totalizing forces of politics is to override and guide political reason, to disrupt politics (222). A recognition of and responsibility to the Other disrupts the hatred of the Other on which political unity is organized. Yet Levinas’ politics are fraught with difficulties. First of all, Levinas’ view of what counts as political is very narrow (173). Indeed, his approach appears similar to Schmittian political concepts in which the state’s role is to distinguish friend from enemy and foreclose all difference in the name of unity. Moreover the political, as Levinas conceptualizes it, has further traces of Schmittian decisionism, which ironically installs a different side of outlawry at the heart of politics. As Critchley elaborates, Levinas sees politics as archic: “it is obsessed with the moment of foundation, origination, declaration, or institution that is linked to the act of government, of sovereignty, most of all of decision that presupposes and initiates a sovereign political subject capable of self-government and the government of others” (182). A decision is extralegal, for in order to qualify as a decision135it must exceed the realm of rule and calculation that comprises the law. Yet the Schmittian sovereign decision aims not at disrupting law, but at conserving it. This is the essence of totalitarianism as conceived by Schmitt. As a result, the political sphere is a realm where only the sovereign has agency and political subjects find themselves limited by a prescribed social role, on the one hand, and exposed to the extralegal violence of the decision, on the other.To be clear, the similarities between these thinkers’ definitions of politics do not by any means align Levinas with Schmitt, either ethically or politically: where Schmitt recommends decisive totalitarian politics as an ideal political system, Levinas is intent on disrupting such totalizing forces with what lies outside of the political realm. Yet his ethical challenge to politics seems ineffectual. For as Critchley points out, Levinasian ethics leaves no room for progressive political action: the disruptive moment transforms into the archic founding gesture, instituting a new third party (1992). In other words, when ethics engages politics, it becomes political, which is to say it takes on a unifying, totalizing impulse and erasure of the ethics that founded it. If this is the case, can we put Levinasian ethics to the task of disrupting politics as a mode of outlawry? In the following section, I address this question, suggesting that while Levinas opens up the possibility for such an ethical role for outlawry by replacing the identity imperative of German Idealism with the imperative for alterity, he does not allow politics to contain that ethical disruption within itself: but Derrida’s re-working of the ethics of alterity does.

### Contention Two: Outlaw Politics

#### THUS OUR ADVOCACY: WE AFFIRM THAT WE ARE BECOMING OUTLAWS.

#### We make two solvency claims:

#### First, Universal Recognition of being- recognition of the outlaw in all of us allows us to rethink ethics creating an ethical interaction towards the excluded other.

#### Second, This recognition solves devaluation- a politics of outlawry is critical to challenging relationships of violence that exist in the status quo

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I began this chapter with the becoming-animal of Levinas and the becoming-ethical of Bobby the dog, with the aim of exploring their mutual exposure at the level of bare life as a site of ethics – an ethics that is situated in the space outside the law, that exceeds the conditions of subjectivation, but that is nevertheless political. The irony of the association of ethics with bare life should not be ignored: indeed, we are most unethically political when we dehumanize others, as we have seen in the Shoah and other genocides, slavery, patriarchy, colonization and so on. So how can the very terms of dehumanization – bare life, or animal life – become a site for ethics and political action? Becoming animal sheds a different light on the politics of life itself by presenting a post-human, rather than merely de-humanized figure, that can be both ethical and political. Moreover, rather than referring to some individual who flouts the law in isolation, becoming animal shares an affective relation with other entities as part of a collective or multiplicity. If Agamben’s conception of bare life diagnoses a crisis in modern politics in which the law is suspended and everyone is homo sacer, exposed to death through totalitarian appropriations of the outside of the law, Deleuze and Guattari’s minoritarian politics, together with deconstruction, provide the framework to re-conceptualize our political concepts so that outlawry becomes a threshold for a revolving disruption of the political sphere with ethics. We might thus conceive of democracy in terms of a politics of bare life, but along the lines of becoming animal instead of homo sacer, and theorize democracy as processes of minority becomings instead of majority rule. How then might we conceive of democracy as a becoming that moves in the direction of the outside of the law, rather than always consolidating the terms of what is inside the law’s borders? In short, how does outlawry, in its deconstructive sense, transform our understanding of democracy?Democracy is typically affiliated with the politics of subjects, and is what Deleuze and Guattari term a molar model, since it is based on the majority, rather than minorities, and consensus, rather than dissensus. As Patton suggests, contemporary liberal democracy is155“a form of government in which the governed exercise control over governments and their policies, typically through regular and fair elections...They ensure equal rights to effective participation in political processes, but also set limits to what majorities can decide by protecting basic civil and political rights and ensuring the maintenance of a rule of law” (185-6). Derrida has demonstrated how problematic this understanding of democracy is with respect to minorities. As he argues in Rogues, the democratic state excludes “all sorts of unlike and unrecognizable others,” in particular the “bad citizens, rogues [and] noncitizens,” despite its promise “at the same time or by turns... to open itself up, to offer hospitality, to all those excluded” (63).The problem with – and the cure for, present forms of democracy arise from the auto- immunity of democracy. Democracy protects itself from what threatens it, from within and from without, by suspending democracy itself. Because it excludes its other, democracy is always ‘put off.’ Derrida refers to this as the Renvoi of democracy: “[R]envoi signifies putting off to later, the reprieve [sursis] that remits or defers [sursoit] democracy until the next resurgence [sursaut] or until the next turn or round; it suggests the incompletion or essential delay, the self inadequation of every present and presentable democracy, in other words, the interminable adjournment of the present democracy” (R 37-38). But this concept is more than simply a critique of the inherent failure of democracy on account of its deferral and difference from itself. The renvoi of democracy refers to alterity itself, to the difference of the other. The deferral is thus also a reaching toward difference. In the terms of Deleuze and Guattari, it is a becoming-minoritarian. Or as Derrida puts it: différance as reference or referral [renvoi] to the other, that is, as the ... undeniable, experience of the alterity of the other, of heterogeneity, of the singular, the not-same, the different, the dissymmetric, the heteronomous” (38). Democracy thus takes a liminal position between the law and justice, the political and the ultra-political: from this border it seeks to re-create itself through a simultaneous construction and deconstruction.With these concepts Derrida provides a starting place for bringing Levinas’ ethics into the political realm. It is through this very contradiction, this difference within itself that democracy-to-come incorporates an ethics of alterity and exteriority. The Derridean sense156of time as out of joint suspends the difference between the law and its outside through a ‘revolution’ that literally implies revolving or circling about. It is through this circular action that democracy-to-come overcomes the homogenizing exclusions of what Levinas terms third party politics (A Tier) with a movement toward alterity – that is ethics – in the political field. However, the deconstructive approach also has its limits: the impossibilities, passivity and the necessary deferral to the future produces a political concept whose praxis is somewhat obscure. What of the politics of the present? What route do we take, as individuals or collectively, toward this future? And who or what is the agent of such a politics?Deleuze and Guattari propose a theory of becoming-democratic that sounds strikingly similar to Derrida’s democracy-to-come, but point also to modes of political praxis in the present, or more precisely, to political praxis as a mode of resistance to the present. This includes a resistance to present democracies, which, Deleuze and Guattari agree, are Capitalist fraternities that have no claim to justice.66 As they ask in What is Philosophy: “What social democracy has not given the order to fire when the poor came out of their territory or ghetto?” (108). Democracy, no less than other political forms, makes outlaws of its minorities, in the vulnerable and disenfranchised sense of homo sacer. But like democracy-to-come, becoming-democratic involves becoming-outlaw in its anarchic sense. Becoming-democratic is the politics of the poor when they come out of their ghetto, and it is the becoming-minoritarian (opening up) of those very forces that exclude the poor. It is a dispersion of the majority that makes up a conventional democracy. Where a democracy is a state of law, becoming-democratic is outside of the law; where democracies are communicative, becoming-democratic is creative. Deleuze and Guattari describe becoming-democratic as a critical philosophy, as follows:We lack creation. We lack resistance to the present. The creation of concepts in itself calls for a future form, for a new earth and people that do not yet exist...Art and philosophy converge at this point: the constitution of an earth and a people that are lacking as the correlate of creation. ...This people and earth will not be found in our democracies. Democracies are majorities, but a becoming is by its nature that which always eludes the majority. (108)157 This form of politics differs from present constitutional states – indeed from any constitutional states – and does not specify a determinate structure. In his commentary on “Becoming-Democratic” Patton points out that the concept “points towards future as yet unrealized forms of democracy, but also reminds us that there is no definitive form that will ever arrive....it enables us to perceive the world differently (180-181). Like Derrida’s ‘to-come’ of democracy, the concept does not offer specific models of political practice, or universal maxims, but instead a critical approach that is anti-conservative; it deconstructs current realities from outside, rather than conserving them from within.With their series of concepts of becoming Deleuze and Guattari set the groundwork for an ethical politics of bare life because people are seized by these becomings to the extent that they are not subjects, citizens or members of normative majorities. Bare life is precisely what we exclude in order to be subjects. However, bare life is not simply ‘being alive’ in the sense that all animal and plant life is alive. It is the politicization of the sheer fact of living through its exclusion from the polis. Agamben discusses bare life as a site of vulnerability and exposure to death, but in Deleuze and Guattari’s framework we might also conceive of bare life as the spring of resistance to the present by which we strive for something new. Levinas experienced this ethics, and this politicization of his own bare life, with his fellow prisoners in the camp. Bare life is thus what constitutes the demos: the people, before they become a democracy, are in processes of becoming- democratic. For Deleuze and Guattari, this is possible as a movement of dispersal even when we are already citizens, or members of the majority, but it is absolutely necessary if we are not.The distinction between bare life and the subject is not absolute when we consider it in the framework of outlawry as a deconstructive becoming minoritarian. We might be both vulnerable and exposed, as in the camp, and yet imbued with the capacity to resist the present, as those in the camp did in various ways, even to their death. And this resistance has the capacity to reconfigure the political sphere – as indeed, those in the camp succeeded at doing (some like Levinas, in a literal sense, and others less directly), for our ethico-political concepts have been dramatically transformed as a consequence of the Shoah, and continue to be. For Deleuze and Guattari, ethical political action occurs at the 158 threshold between centre and periphery, subject and non-subject, singular and general that is expressed in ‘becoming-animal’ and becoming-minoritarian. From this liminal position agency is not only possible but is, as a matter of necessity, tied to the vulnerability of bare life, which is always poised at the edge of violence or death. In other words, it is those very people that are excluded, or more generally anyone to the extent that one is outside of the law, that demands both an ethical and political response. Political change, if it is to be ethical, mobilizes around those exclusions.

#### Changing social structures and power is counter revolutionary changing one kind of rule for another, instead we need critique that remove meaning from identity destroying the foundation of power today

Bunch, 2010

[Mary, PHD in philosophy at the University of Western Ontario, OUTLAWRY AND THE EXPERIENCE OF THE (IM)POSSIBLE: DECONSTRUCTING BIOPOLITICS, Doctoral Thesis] /Wyo-MB

Deleuze and Guattari are thus interested in the politics of the subject at that moment of spontaneous rebellion that is a part of the movement of the subject between inside and outside. Even as we undergo processes of subjectivation, to some degree we evade hegemonic power and knowledge, as we engage in becomings that reverse subjectivation. This is why Deleuze and Guattari frame minoritarian becomings under the heading of becoming-animal: if subjectivity is based on a break from animality, then becoming- animal must derive from a break with subjectivity.65 In psychoanalysis and metaphysics more generally, such a movement toward animality is associated with degradation and abjection (as with homo sacer), but this is not necessarily the case for becoming- animal/becoming-minoritarian. The call to becoming-animal comes from the outside of the generalizing, molar force of law. It is not a naming call to conscience, but instead an affect that calls our humanity into question, propelling us into new configurations and transformations outside of the law, at the threshold, and between the borders, altering what it means to be political, revising what it means to be human. Become-animal constitutes another version of the outlaw that I elsewhere took up as the ‘unbecoming girl’ and werewolf. What is distinctive about becoming animal is that the concept brings a sense of multiplicity to conceptualizations of outlawry, unlike the werewolf and becoming girl, who were discussed in their singularity. For however singular an urge for becoming may be, becoming animal-minoritarian-revolutionary is qualitatively affective: becomings pull beings together, one to the other, without binding them under conditions of sameness. Deleuze and Guattari write: “[T]he affect is not a153personal feeling, nor is it a characteristic; it is the effectuation of the power of the pack that throws the self into upheaval and makes it reel. Who has not known the power of these animal sequences, which uproot one from humanity, if only for an instant.... A fearsome involution calling us toward unheard-of becomings” (240). The affect pulls us into a becoming that is a critical de-subjectivation (like the unbecoming girl); it launches into a border position (like the werewolf). But these alterations of the conditions of our subjectivity exceed the transformation of singular beings. We are a gang of girls, a pack of wolves, a swell of revolutionaries. The series of becomings produce a revolutionary humanity, or more precisely a revolutionary post-humanity.Becoming-animal thus brings us to a form of revolutionary philosophy, but not in the precise sense derived from Enlightenment politics, nor from Marxism, as transfers of power from one group to another. As Buchanen explicates, traditional revolutions, those that focus on securing power, are counter-revolutionary: they don’t change the institutions and ideologies in which power is invested; they merely transfer power from one class to another (14). But what would a revolutionary dispersal of power look like? Deleuze and Guattari propose a form of “revolutionary becoming” which Deleuze contends in his interview with Negri is “the only way of casting off ... shame or responding to what is intolerable.” Paul Patton notes that what these authors are after is a “resistance to the present” (178). Becoming-revolutionary transforms our social and collective identities.

 The impetus for change is derived from the diffusion of molar political forms, through a myriad of minoritarian-becomings (182). If these minoritarian- becomings constitute another version of outlawry, than revolutionary-becoming must as well. But what kind of politics does this portend? If it involves a dispersal, rather than a transfer of power, does becoming-revolutionary undo all molar forms and dismantle all identities, leaving us in a wild realm of outlaw chaos? Is this a return to the state of nature, in its brute Hobbesian form, or Rousseau’s idyllic version? Is becoming-outlaw nothing but an assault against any form of structure or authority? Not necessarily. Outlawry is a critique of molar political forms that allows for some creative processes of re-invention. It is a critique of the present, so to speak, that launches us toward that justice-to-come that Derrida promises. As such, outlawry, as I have conceptualized it, informs (by resisting) the political structures of the present, such as democracy.

#### UTILITARIAN ENFRAMING COUPLED WITH THE DRIVE FOR SECURITY CAUSES A TOTALIZING METAPHYSICAL VIOLENCE

Burke in 2007

(Anthony, Senior Lecturer in Politics and International Relations at UNSW, Sydney, “Ontologies of War: Violence, Existence and Reason”, Theory & Event, Volume 10, Issue 2, 2007, pMUSE, cheek)

# This essay describes firstly the ontology of the national security state (by way of the political philosophy of Thomas Hobbes, Carl Schmitt and G. W. F. Hegel) and secondly the rationalist ontology of strategy (by way of the geopolitical thought of Henry Kissinger), showing how they crystallise into a mutually reinforcing system of support and justification, especially in the thought of Clausewitz. This creates both a profound ethical and pragmatic problem. The ethical problem arises because of their militaristic force -- they embody and reinforce a norm of war -- and because they enact what Martin Heidegger calls an 'enframing' image of technology and being in which humans are merely utilitarian instruments for use, control and destruction, and force -- in the words of one famous Cold War strategist -- can be thought of as a 'power to hurt'.19 The pragmatic problem arises because force so often produces neither the linear system of effects imagined in strategic theory nor anything we could meaningfully call security, but rather turns in upon itself in a nihilistic spiral of pain and destruction. In the era of a 'war on terror' dominantly conceived in Schmittian and Clausewitzian terms,20 the arguments of Hannah Arendt (that violence collapses ends into means) and Emmanuel Levinas (that 'every war employs arms that turn against those that wield them') take on added significance. Neither, however, explored what occurs when war and being are made to coincide, other than Levinas' intriguing comment that in war persons 'play roles in which they no longer recognises themselves, making them betray not only commitments but their own substance'. 21 # What I am trying to describe in this essay is a complex relation between, and interweaving of, epistemology and ontology. But it is not my view that these are distinct modes of knowledge or levels of truth, because in the social field named by security, statecraft and violence they are made to blur together, continually referring back on each other, like charges darting between electrodes. Rather they are related systems of knowledge with particular systemic roles and intensities of claim about truth, political being and political necessity. Positivistic or scientific claims to epistemological truth supply an air of predictability and reliability to policy and political action, which in turn support larger ontological claims to national being and purpose, drawing them into a common horizon of certainty that is one of the central features of past-Cartesian modernity. Here it may be useful to see ontology as a more totalising and metaphysical set of claims about truth, and epistemology as more pragmatic and instrumental; but while a distinction between epistemology (knowledge as technique) and ontology (knowledge as being) has analytical value, it tends to break down in action.

## 2ac

#### Root cause-

Nesbitt 13

[Nick Nesbitt, Prof @ Princeton University, State University Ch. “Escaping Race” Book- “DELEUZE CONNECTIONS: Deleuze and Race”, pg 8-9, 2013, \\wyo-bb]

A focus on race also summons some of the most controversial questions relating to human-being impelling most thinkers between the mid-nineteenth and mid-twentieth centuries. Like Nietzsche, Deleuze and Guattari are not afraid of asking whether inequality is located in bodies (it is, but not genetically); like both Nietzsche and Freud, they ask what is wrong with civilization itself (it overcodes filiation). Reaching into the deep recesses of culture, an archaic and convoluted logic of differentiating civilization from savagery and barbarism is exposed. This logic preceded European colonialism by centuries (see Han chauvinism, Brahmanism, Arab–black relations and so on). Though not European in origin, this logic formed the basis for a retrospective Judeo-Christian narcissism, for the oceanic slave trade, nationalism and fascism. Far from ‘naturalising’ race, Deleuze’s nomadological and biophilosophical geology of morals can demonstrate that race is built upon fully contingent territorialisations of power and desire which could be disassembled and differently reassembled. That race is immanent to the machinics of bodies and flows does not mean it is automatic, any more than that it is autonomous in relation to, for example, capital or sexual difference. The immanence of race does suggest, however, that an end to racism is an always already incipient reality. My contention is that Deleuze and Guattari’s two volumes of Capitalism and Schizophrenia present a hitherto undeveloped theory of biopower and hence of race. This is not to argue against existing interpretations but to recast desire, territory and capital towards the category of race. Deleuze and Guattari’s theory of biopower has a much greater historical and geographical scope than what Foucault (2003 and 2008) introduced roughly during the same period. If Foucault famously states in his foreword to Anti-Oedipus that it is a guide for antifascist living, I contend that countering fascism means, above all, delving into the machinic depths of civilisation’s intrinsic racism. Sidestepping the pitfalls of biological reductionism Deleuze and Guattari not only argue that there is a materiality of race, but also forge an affirmative kind of antiracism quite different from the liberal–democratic kinds prevalent today. Supplementing Deleuze and Guattari with Sylvain Lazarus, my suggested antiracism consists in naming, accelerating and staying true to the bastard and mixed-blood probe-heads escaping the global faciality machine.

#### Extend our Bunch Structures

#### Zapatismo erases difference and lumps people together—a better way to view difference in the world is multiplicity

Tormey 6 [Simon Tormey, Professor of Politics and Critical Theory at the University of Nottingham, UK, and Director of the Centre for Social and Global Justice based in the School of Politics and International Relations, 2006, oxford journals, wyo-sc]

One of the reasons, it seems, for the loose-limbed ‘anarchic’ nature of the CCRIs is the shared perception of the impossibility of generating representational structures even on a delegated basis—a point that in turn echoes Deleuze’s critique of identity. Reading Zapatista communiqués one quickly gets the sense of an acute awareness of the differences between communes, between ethnic groups, between regions, all of which makes it impossible as they see it to reduce this ‘difference’ to representational terms. So instead of declarations in the name of some collective subject or group such as ‘the poor and oppressed, ‘the peasants’ or the names of the various groups and ethnicities, the favoured expression is merely ‘the peoples of the Chiapas’. This echoes the concerns that underpins Deleuze and Guattari’s use of the term ‘multiplicity’ itself reminiscent of the Spinozan term, ‘multitude’. A multiplicity is not a denumerable set such as ‘the majority’. It is the dissolution of collective categories, including the favoured formula of romantic Enlightenment, ‘The People’. A multiplicity of this kind cannot be ‘represented’ because it is a description of disaggregation. It is, in Deleuze and Guattari’s vocabulary, a ‘molecular’ not a ‘molar’ term, one intended to reinforce the image of combinatory dynamism as opposed to the stasis of passive aggregates. Marcos’s careful formula respects this sense of difference that he sees in his own ‘constituency’. As he puts it:

#### We don’t reduce identity—we open up space for post-representational practice

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In this sense as in the other senses discussed here, it seems to me that this is a very Deleuzian kind of struggle, and Deleuze (and Guattari) anticipate on the plane of high theory the kinds of demands being articulated by Marcos and the Zapatistas. This is also to say that the search for a post-representational form of political practice should not be read as necessarily ‘nihilistic’ (as Laclau insists) or as one that inevitably pits the aristocratic ‘one’ against the many. Or if it is, then it is a nihilism that, as per Deleuze’s reading of ‘eternal return’, is a struggle in which being and difference are constantly affirmed. It is an affirmation of difference itself, of the singular voice, and of the possibility of and necessity for ‘spaces’ in which those voices can be heard. In the terms offered by Deleuze and Guattari this would be ‘smooth’ space as opposed to the ‘striated’ space of representational systems. It would be a ‘deterritorialised’ space of combination and recombination in accordance with differentiated, disaggregated desires; not the territorialised space of hierarchy, fixed and known roles that define ‘identity’. In terms of Zapatismo, this is a space in which ‘all worlds are possible’ and in which it is the constant combination and recombination of the indigenous peoples that determines what ‘happens’.¶

#### Perm do both: Find Zapatistas movements as a minoritarian gesture.

#### D+G fight off any risk of essentialism by affirming the Nomadic

Nail 11

[THOMAS ANDREW NAIL, Doctoral defense, Presented to the Department of Philosophy and the Graduate School of the University of Oregon in partial fulfillment of the requirements for the degree of Doctor of Philosophy, “RETURNING TO REVOLUTION: DELEUZE, GUATTARI, AND ZAPATISMO”, March 2011, \\wyo-bb]

Thus, if solidarity is possible how does it work? By solidarity I mean, the immanent, point-by-point connection between at least two heterogeneous evental sequences (an immanent condition, its concrete elements, and its forms of agency). By “connection,” I mean the degree to which a concrete element or singularity is affirmed as a consequence or singularity of both evental conditions. Since merely “deciding on the undecidable,” as I argued in chapter IV, is insufficient for sustaining the participatory consequences and agents of such a decision, so is merely “deciding on the undecidable” relation between two heterogeneous political conditions. Accordingly, it is necessary, for evental solidarity, to connect at least one consequence or element from one event to at least one consequence or element of another. The more concrete elements of an event that are connected to the elements of another event, the greater the degree of infinity in each event as well as the degree of solidarity between them. In What is Philosophy? Deleuze and Guattari call this the “external neighborhood or exoconsistency” of the event. Its trans-universal or “transversal” relations are “secured by the bridges thrown from one [machine] to another” (Deleuze and Guattari 1994, 90). This is the piece-by-piece labor of solidarity. But since each revolutionary condition is singular, a “connection” or “transversality” between connections cannot mean total identification. Rather, this kind of revolution is “constructed piece by piece, and the places, conditions, and techniques are irreducible to one another” (Deleuze and Guattari 1987, 157). Thus two heterogenous conditions become more or less connected/identified through an unlimited series of concrete political practices that act as non-communicating relays. This is because “for the nomad,” according to Deleuze and Guattari, “locality is not delimited; the absolute, then, does not appear at a particular place but becomes a non-limited locality; the coupling of the place and the absolute is achieved not in a centered, oriented globalization or universalization but in an infinite succession of local operations” (Deleuze and Guattari 1987, 383). But this infinite succession is not an indefinite delay of solidarity; it is the positive concrete articulation of increasingly greater degrees without a totality of absolute unification. Just as two different nomadic Bedouin families share more or less solidarity over some specific practices and thus “participate to some extent in the common descent” (my italics) of each others’ families, so it is possible to say that two or more heterogeneous political conditions participate to a greater or lesser extent in each others’ conditions to the degree that they share a number of the same concrete consequences or relays. With this definition we are closer to the earlier political meaning of the word nomos as a mode of non-limited distribution than we are with the derivative fifth or sixth-century Greek definition of nomos as law (loi), judgement (juger), or government (gouverner) (Laroche, 1949, 256). With this definition it is also possible for one to occupy multiple heterogeneous conditions at once to the degree that a given distribution of bridges of shared commitment crosses transversally multiple political conditions. This is what Deleuze and Guattari call a constructivism, [or] ‘diagrammatism,’ operating by the determination of the conditions of the problem and by transversal links between problems: it opposes both the automation of the capitalist axioms and bureaucratic programming. From this standpoint, when we talk about ‘undecidable propositions,’ we are not referring to the uncertainty of the results, which is necessarily a part of every system. We are referring, on the contrary, to the coexistence and inseparability of that which the system conjugates, and that which never ceases to escape it following lines of flight that are themselves connectable. (Deleuze and Guattari 1987, 473) We have now been able to finally answer the question, “how can one uphold the rights of a micro-analysis (diffusion, heterogeneity, fragmentation) and still allow for some kind of principle of unification that will not turn out to be like the State or the Party, a totalization or a representation” (Deleuze 2006, 132–33)? The answer requires a revolutionary body politic to have at least four specific characteristics: singularity, universality, inclusivity, and a participatory structure (defined in chapter IV and rephrased above). It must be local and determinate with a proper name, absolute and infinite in its consequences, and open to modification by anyone without pre-defined criteria. Given these four characteristics, I have shown how Deleuze and Guattari define a “collective political body” by its nomadic solidarity following Laroche and Khaldun. Laroche defines nomos by its earlier Homeric roots as the open distribution or arrangement of a collective body in an unlimited and inclusive space. The forest, pasture, mountain steppe, and their inhabitants all express this undivided but clearly heterogeneous kind of distributive unity. Khaldun, then, defines the connections between heterogeneous Bedouin families neither by Family, State, or Territory, but by two different axes: Common descent and relations of relayed group solidarity. While groups of common descent never merge entirely, they merge to a greater or lesser degree depending on the concrete relations of group solidarity at a given time. Finally, we reached the definition of nomadic solidarity as the piece-by-piece infinite connection (bridging) of shared concrete actions by two or more heterogeneous political conditions (never merging but becoming more or less transversally identical).

#### Zapatistas are ineffective – they just trade one kind of rule for another—politics remains at the center, and not the periphery

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The experience of the Zapatistas shows that it is possible to think the ‘outside’ or beyond of representational politics, even when in their own practices and philosophy representational issues remain to be ‘resolved’. As regards the latter, we could mention here the position of Marcos who grapples daily with the demand of being as it were a post-representational ‘representative’ for the peoples of the Chiapas, at once a spokesperson, but also a ‘mirror’ reflecting what he sees. We can also mention the apparent fragility of relationships that serve to sustain this post-representational experiment: the relationship between the EZLN and the CCRIs, between the CCRIs and the autonomous zones, between ordinary people and the various (non)-representatives such as Marcos who seek to ‘echo’ what they hear. We could also point to the perhaps temporary or contingent nature of the latter’s post-representative politics. What the Zapatistas seek is after all ‘a free and democratic space’ as opposed to ‘smooth space’, which on one reading might be regarded as a space ‘beyond’ or outside democracy, of rulers and ruled, of leaders and led. This in turn suggests that beneath the respect for the ‘voice’ there may well be a political project or ‘ideal’ of the kind that Deleuze and Guattari were suspicious of, and which they equate with a traditional redemptive politics.¶ What the Zapatista experiment ‘represents’ is nonetheless a kind of politics that is resolutely ‘immanent’ in the sense used by Deleuze. They are attempting to make autonomy a lived experience as opposed to a transcendent, virtual or cosmetic idea of self or collective empowerment. There are no founding myths, no extant norms, values and interests that have to be invoked to make the community ‘work’. To invoke Wittgenstein, another philosopher of ‘immanence’, ‘nothing is hidden’, everything lies ‘open to view’. Here is a politics that in rejecting representation seeks to place the singular as opposed to ‘special’ groups at the centre of communal and collective life. It is a demanding ‘politics’, one that is fraught with difficulties and tensions as the experience of the Zapatistas shows. It is also a fragile exercise, one built on a catallaxy of contingent and creative interactions rather than on the kind of deeply sublimated notions of order and authority that underpin most ‘democratic’ structures. But it is one that remains true to a sentiment that appears to be gathering momentum not just in Mexico, but wherever one cares to look. It starts from a simple yet resolutely post-representative assertion: ‘Not in my Name’.

#### Role of the judge and the ballot it so find whoever finds the best resistance. It is not enough as a revolutionary to just act, but you must think, what is it that we do? What is it we resist?