### The Game of Drones

#### The fleets of Predators and Reapers are growing, as strikes continue to be authorized at an increasing rate

Allinson 12 (Jamie, University of Westminster, Millennium Conference 2012, “Necropolitics of the Cyborg Empire: Rethinking the Drone War”, Pg. 3-4, Vance)

Since that point drone use has grown enormously. In 2002 the US spent around $550 million on UAVs, a figure that had risen to $5 billion in 2011. US forces by 2008 held 5,331 such drones in its inventory. There are two UAV programmes operated by the US: one overt and under the command of the military, the other covert and under the command of the CIA, working in states in which the US is not legally engaged in any conflict. The Bureau of Investigative Journalism reports that there have been 344 CIA drone strikes in Pakistan, killing between 2,562 and 3,325 people and between 40 and 50 CIA drone strikes in Yemen, killing between 60 and 166 people. The two kinds of drones most used by the US for killing missions are the Predator and the Reaper. The Predator, a relatively large piece of equipment about the size of a bi-plane, carries hellfire missiles on top of a chassis originally intended for reconnaissance. From 2007, the US began to replace Predators with ‘MQ-9’ or ‘Reaper’ drones built more specifically for lethal purposes: the Reaper has a wing-span of 64 feet, carries 15 times as much explosive weaponry as the Predator and can fly 3 times as fast. The US Air Force holds 268 Predator drones and 79 Reapers, which number is planned to increase to 400 – the number of CIA drones is unknown. The drones flown by remote control by ‘pilots’ located in the US or any one of a reported sixty bases around the world – often with a local technician involved as well. President Obama proved far more willing to use aerial drone attacks, for example in assassinating US citizen Anwar Al-Awlaki in Yemen, than his predecessor George W. Bush. Whereas President Bush sanctioned, on average, one drone attack every forty-seven days, the average for President Obama was one every four days. Of the 308 drone strikes since 2004, 256 took place under Barack Obama. Many of these strikes have been in Yemen or Pakistan: the advantage of the drone being that it can be used to carry out killings in countries in which the US is not officially involved in conflict and without introducing ground troops. The Pentagon has begun to reconfigure the location of its overseas bases, mostly around the Arabian peninsula and East Africa, to permit most effective drone use. The most significant advantage of drone warfare, perhaps, is that it is comparatively cheap. Drones cost much less to build and operate than manned aircraft: a 24-hour manned reconnaissance mission requires 8 F-15 planes, 15 pilots and 96 mechanics whereas a similar UAV mission requires only 3 drones, 4 operators and 35 mechanics. One ‘Reaper’ drone costs ten times less than an F-22 ‘Raptor’ fighter. Indeed, so impressive has the cost-effectiveness of drones been, that in 2006 the US Senate Armed Forces committee mandated that spending must be specially justified when it is not on unmanned technology. The US plans to spend $30 billion on drones up to the year 2020.

**These weaponized drones create disposable populations that fall under the gaze of necropolitics**

**Allinson 12** (Jamie, University of Westminster, Millennium Conference 2012, “Necropolitics of the Cyborg Empire: Rethinking the Drone War”, Pg. 9-12, Vance)

The concept of ‘**necropolitics’ occupies that space between the image of the sovereign as arbiter of life and death, and reducer of beings to death-in-life, and the governance of life, of bodies and of the ‘the species body, the body imbued with the mechanics of life and serving as the basis of the biological processes…with all the conditions that can cause these to vary’**. **Necro-politics exercises** **the sovereign right of death, and the distinguishing of populations who are to be subject to it, through the logics of surveillance and management characteristic of ‘governmentality’. One need think only of** any instance of **drone warfare⎯the apparatuses and dispositions of data implicated in killing-by-drone**, the dispositions and structures of information, the rendering of space as a Cartesian grid in which watching-killing is carried out⎯to grasp how appropriate the idea is to our topic. **In this combination of governance and death, necropolitics is both creator and artifact of those areas beyond the ‘caesura’ spoken of above: in the colony, ‘in which war and disorder, internal and external figures of the political, stand side by side or alternate with each other’**. **Ian Shaw and Majed Akhter have already situated drone warfare within ‘the well-worn circuit of Western hegemony and empire**, fed by the brutal dialectic of capitalism and imperialism’. Writing of the CIA drone campaign in the Federally Administered Tribal Areas (FATA) of Pakistan, **they describe how ‘uneven geo-legalities of war, state, and exception make drone warfare a reality in certain spaces and not others’**. Also referring to Donna Haraway, Shaw evokes the manner in which drone surveillance-targeting-death **enacts the ‘God-trick’⎯ enchanting a partial perspective with the illusion of its totality**, and consequently **wreaking a dreadful violence on the human forms that fall beneath its gaze**. This paper picks up on the alternative reading of drones highlighted by Shaw’s invocation of the Object Oriented Philosophy of Graham Harman and Quentin Meillaisoux. **Drones as objects**, argues Shaw, are not simply dumb existences but **‘are already autonomous, in the sense that they themselves act upon the world, opening up certain possibilities while simultaneously closing others down**…slicing and dicing bits of reality to produce the world in their own image’. Moreover, the drone is a fundamentally fetishized object, transforming relations between people (specifically of some people choosing to kill other people) into relations between objects, ‘isolated from the imperial and military apparatus behind it'. Complementing Shaw’s enquiry, this paper presents drones not just as objects of potent thing-ness, but also as fusions of human flesh, cybernetic weapon and ‘imperial and military apparatus’. Here we return to the operations of necropolitics, constitutive of that self-same imperial-military apparatus. Mbembe writes of necropolitics as the ‘synthesis of massacre and bureaucracy’, perfected in the colony and returned to Europe in the Second World War. **The idea of necropolitics, and the particular place of the colony in its operation occupies a point of tension within the intellectual inheritance of Foucault: stretching across the distinction drawn between the disciplinary power of the sovereign, captured in the striking vignette that opens Discipline and Punish, as ‘principally that of life and death over his subjects…the power to put them to death’ and biopower as ‘the new discursive regulation of populations through surveillance and control of their health, sexuality, reproduction and so on’ assuming ‘the right to life over a whole population’**. **Judith Butler identifies** this tension in her dissection of the role of detention and torture in the War on Terror: writing of how **‘governmentality becomes the field in which resurgent sovereignty can rear its anachronistic head’ through the state of extra-legality justified by invoking the exceptional threat of terrorism**. **Drawing on Agamben, she argues that ‘one way of managing a population is to constitute them as the less than human without entitlement to rights, as the humanly unrecognizable’ and that this is ‘different from producing a subject who is compliant with the law’**. The view of disciplinary power and biopower as a chronological sequence in Foucault’s work has been challenged by Stephen Morton and Stephen Bygrave who write that ‘[d]isciplinary power and bipower emerged successively but operated simultaneously’. **More important for our purposes here is the notion of necropolitics as the embedded operation of the sovereign right to kill within the familiar technologies of biopower**. **Necropolitics is thus fundamentally an apparatus of ‘racial’ distinction**, which constitutes the very populations between which the distinctions are made. Thus Mbembe writes, interpreting Foucault, ‘[i]n the economy of biopower, the function of racism is to regulate the distribution of death and to make possible the murderous functions of the state’ forming ‘“the condition for the acceptability of putting to death”’. We return here to drones and their wars. For the drone is not merely a new technology in the every-day sense of a mechanical and electrical assemblage: it is a technology of racial distinction. What else is **the drone operator’s screen** or any potential Automated Target Recognition (ATR) system but a **means** ‘**to define who matters** and who does not, **who is disposable** and who is not’? Circling and swooping above entire territories, the drone **defines who is an ‘object in the battlespace’ and who is not, delineating those areas and populations characterized by the ‘acceptability of putting to death’**. The current debate on drones and their potential autonomy misses this point not by underestimating the autonomy of drones but overestimating that of their operators: there is already a Target Recognition system at work in the technology of racial distinction that embraces both the mechanical drones and their fleshy operators. It is in this sense that I speak of ‘imperial cyborgs’. How is this technology visible in the practice of drone strikes? In the following section **I take up a particular, unusually well-documented instances of a strike that killed Afghan civilians to substantiate my argument about the necropolitics of the imperial cyborg**s. This is only one instance, of course, but it evokes a series of response and slippages also visible in the considered pronouncements of US military personnel of varying ranks. For example, when describes drones as ‘our answer to the suicide bomber’ the implication is not too difficult to draw out: the opponents of the US, being fanatical and uncivilized, do not fear death and therefore must be met with the ultimate product of technical civilization, a killer robot without the capacity to fear death. A similar slippage is at work when a US military journalist predicts the development of autonomous robotic networks that will ‘help save lives by taking humans out of harms’s way’. Of course, a combat drone that does not put humans in harm’s way would be useless. The premise of this statement is that those who take up arms against the US have forfeited their humanity, becoming ‘savage life… just another form of animal life’. **The process of racial distinction relies upon an apparatus of knowledge that identifies those whom it is acceptable to put to death. This apparatus of knowledge,** the colonial algorithim of the drone-cyborg, **in particular defines** Afghan ‘MAMs’ (**Military Age Males) as those whom it is ‘acceptable to put to death’, and assimilates every decision to kill to the identification of members of such a category. As the NYU/ Stanford report ‘Living under the Drones’ relates** ‘**the US government counts all adult males killed by strikes as “militants**,” **absent exonerating evidence’**.

#### Those subject to drone strikes are homines sacri—irrelevant in life and death, deemed disposable for a calculated greater good

Wilcox 9 (Lauren, PhD candidate in the Computer Graphics and User Interfaces Group at Columbia University, Political Theory Colloquium, “Body Counts: The Politics of Embodiment in Precision Warfare”, Pg. 17-20, Vance)

While the ‘terrorists’ are targeted for death, a large number of the people actually killed in precision warfare are civilians. The ‘spectacle’ of punishment in bombing is the destruction of buildings and non-human targets; the death of people, whether soldiers or civilians with some important exceptions, is hidden from view. Where the just war tradition sees death in war as glorious sacrifice on behalf of the nation, death is a mistake, an accident, in precision warfare (Elshtain 1995 [1987]). Apart from the much discussed ‘CNN effect,’ in which Western countries are seen to be reluctant cause civilian casualties or endure casualties of their own military forces due the supposed lack of political support for such missions, the avoidance or hiding of death can be seen as part of a broader process of liberal warfare. Challenging this vision of the perfectability of war, Beier argues “there is an indeterminacy inherent in the use of precision-guided munitions (PGMs), even when the weapons themselves perform as intended,” (Beier 2006, 267). While the military stresses the procedures used to distinguish civilians from the intended targets, drones reportedly kill ten civilians for every militant death (Byman 2009). 87 civilians were killed in 42 drone attacks in Israel’s Operation Cast Lead in the Gaza Strip between December 2008 and January 2009 (Human Rights Watch 2009). The legitimacy of precision bombing is based on up the just war and international humanitarian law principles of discrimination and double effect. Civilians are not to be the target of military attacks, but their unintended deaths are acceptable insofar as their deaths are not deemed disproportionate to war aims. The deaths of civilians in places were precision bombs are being dropped are produced as an accident, a calculated if unfortunate risk, and whose deaths must be down played and hidden from view. The practices of precision warfare suggest a different understanding of the subject of violence than concept of civilian is meant to imply. While enforcement of the principle of civilian immunity has historically been more honored in the breach than the observance, the principles of precision warfare indicate an understanding who should be killed, who can be killed, and who must be protected that is at odds with the civilian/combatant distinction. Those to whom violence is done to ‘accidentally’ are constituted as ‘bodies that don’t matter’. Civilian deaths are considered tragic, but acceptable. “While any loss of civilian life is deplorable, the relatively few non-combatants killed by bombing attacks—Human Rights Watch estimates 500—is nonetheless remarkable for such an intense air campaign.” (Meilenger 2001, 78-79). This number has been recorded for the air war over Kosovo by a human rights organization, while in the conflicts in Afghanistan and Iraq, government officials have refused to keep count of civilian deaths, referring to the difficulties in ascertaining an ‘accurate’ count. One UK official said, “It should be recognized that there is no reliable way of estimating the number of civilian casualties caused during major combat operations,” (BBC 2005). The deaths of civilians are not in view of either the bombers or the viewers thousands of miles away who witness the war through a media restricted from showing the caskets of dead soldiers returning to the United States (Milbank 2003) (Stolberg 2004).. The Pentagon has also disavowed the possibility of ascertaining how many civilians have been killed despite the existence of many techniques for counting civilian dead (Norris 1991, 228). The limits of the discourse of precision can be seen in the contrast between the capability to bomb buildings accurately, but not count civilian deaths accurately. Precision warfare is thus distinguishable from prior modes of warfare. By means of contrast, in the Vietnam War, progress was often measured by ‘body counts’ of the number of enemies (or suspected enemies killed). Accordingly, very precise records were kept of the number of deaths. The Iraq Body Count is one attempt to counter the erasure of the civilian death. The IBC uses confirmed media accounts of violent deaths in order to conservatively estimate the number of civilians killed in Iraq, while also providing information on the circumstances of their deaths and biographical information about the victims. The IBC differs from other estimates of civilian deaths in IRAQ, notably the Lancet study (Roberts 2004), in that it does not use estimates but insists on recording actually, verifiable deaths. In the discourse of precision warfare, the difficulty of distinguishing between civilians and combatants is presented as an epistemological problem of insufficient vision in surveillance, or insufficient intelligence. In other words, distinguishing between civilians and combatants, and only killing combatants, is possible with better information. However, epistemologies do not only produce objects of knowledge, but produce ‘unknowns’ as well. The lack of precise body counts, as well as the difficulty in distinguishing between civilians and combatants in precision warfare should not be understood as a temporary shortcoming in a progression of ever-increasing knowledge, but as an actively produced ignorance (see Tuana 2004). Applied to ‘body counts’ the difficulties in accurately calculating the number of civilian and combatant deaths are not a matter of unreliable systems of measurement and the methodological and political issues surrounding attempts to enumerate casualties, but rather the result of a discursive system that actively produces the ‘accidental’ deaths of civilians as un-knowable. The ‘unknowability’ of civilian deaths is related to their production as homines sacri, sacred men. Agamben’s figure of homo sacer is a person who can be killed without the death being considered a homicide (Agamben 1998). The homo sacer has been constituted by sovereign power as ‘bare life,’ biological life without political significance. This concept has different implications from the concept of ‘civilian’. Whereas civilians retain their status as persons whose right to life is to be protected under international law, the state of exception that characterizes war, and especially precision warfare, has made the civilian into a figure whose life has no political significance. ‘Bare life,’ however, has entered politics by the very nature of precision warfare that takes the protection of citizens on one hand, and the civilians in physical proximity to the enemy fighters on the other, to be major political concerns. To be relevant insofar as they live or die, to be enumerated in ‘body counts’ is to be sacred life, that is, killed without the religious overtones of sacrifice. To avoid killing civilians a key rationale for the development and use of precision weaponry, yet, it is due to the practices of precision warfare that that civilians are made killable in the first place.

**Additionally, the use of targeted killing by drones creates a violent cartography exemplified by the atomic explosion**

**Shaw and Akhter 12** (Ian Graham Ronald Shaw School of Geographical and Earth Sciences, The University of Glasgow and Majed Akhter School of Geography and Development, University of Arizona, “The Unbearable Humanness of Drone Warfare in FATA, Pakistan”, Antipode Vol. 44 No. 4 Pg. 1491-1509, Vance)

Representation, a social practice and strategy through which meanings are constituted¶ and communicated, is unavoidable when dealing with militarism and military activities.¶ **Armed Forces**, and defence institutions, **take great care in producing and promoting**¶ **speciﬁc portrayals of** themselves and **their activities in order to legitimize and justify their**¶ **activities** in places, spaces, environments and landscapes (Woodward 2005:729).¶ In this section, we argue that the r**amping up of drone deployments is justiﬁed**¶ **by a distinctive targeting logic**. As Paul **Virrilo** (1989) has long **argued, there is never war without representation**, which is to say, the deadly materiality of war is¶ **always coiled within a discursive system** (see also Shaw 2010). In this sense, **the**¶ **drone performs a well-rehearsed imaginative geography** (Bialasiewicz et al 2007;¶ Gregory 2004) that is **underwritten by targeted kills across neat isometric grids** and¶ algorithmic calculations (Amoore 2009), **far removed from the brutal Real** (Jones¶ and Clarke 2006), and in a peculiar relation with the visceral imagery of previous¶ wars (Tuathail 2003). The ofﬁcial “deﬁnition” of a targeted kill is not agreed upon¶ under international law. Yet as a recent UN report on **targeted killing** reveals, it **can**¶ **be thought of as follows:**¶ **A targeted killing is the intentional, premeditated and deliberate use of lethal force,**¶ **by States or their agents acting under colour of law**, or by an organized armed group¶ in armed conﬂict, **against a speciﬁc individual who is not in the physical custody of**¶ **the perpetrator.** In recent years, a few States have adopted policies, either openly or¶ implicitly, of using targeted killings, including in the territories of other States. **Such**¶ **policies have been justiﬁed both as a legitimate response to “terrorist” threats** and as a¶ necessary response **to the challenges of “asymmetric warfare”.** **In the legitimate struggle**¶ **against terrorism**, too many criminal acts have been re-characterized so as to justify¶ addressing them within the framework of the law of armed conﬂict. New technologies,¶ and especially unarmed combat aerial vehicles or **“drones”**, **have been added** into this¶ mix, by **making it easier to kill targets, with fewer risks to the targeting State** (Alston¶ 2010:3).¶ The means and methods of killing vary, and include sniper ﬁre, shooting at close¶ range, missiles from helicopters, gunships, drones, the use of car bombs, and poison¶ (Alston 2010:4)¶ **The drone** is heralded by the US military **as the apex of a targeting logic**—¶ accurate, efﬁcient, and deadly. This logic traces a distinct genesis. In 1938 Martin¶ **Heidegger wrote** of the “age of the world picture”, in a classic essay **on the split**¶ **between subject and object**. For him, **today’s world is conceived, grasped, and**¶ **conquered as a picture—and what it means “to be” is for the ﬁrst time deﬁned as**¶ **the objectiveness of representing**. In this modern age of humanism, a subjective¶ “worldview” arises for the ﬁrst time—**humans appear as Cartesian subjects and the**¶ **world as a calculated picture, engineered by science and technology**. Ray **Chow**¶ (2006) **extends this metaphysical analysis to contend that the world has further**¶ **been produced as a “target”.** In the wake of the atomic event of Hiroshima, t**he entire globe is rendered as** a grid of t**argets to be destroyed as soon as it can be made visible**. Indeed, **to see is to destroy**.¶ Vision is thus crucial to an ocularcentric Western society (Rose 2001), and always¶ already entangled within military culture. **The ability to gaze from “nowhere” and yet**¶ **represent “everywhere” is what Haraway** (1988) **labels the “god-trick”**. She argues¶ that **the eyes have been** perfected by the logics of military, capitalist, and colonial¶ supremacy; one that is fundamentally located within a nexus of disembodiment:¶ ... the vantage point of the cyclopian, self-satiated eye of the master subject. **The Western eye has fundamentally been a wandering eye.** Vision is apparently **without limit, the ‘ordinary primate’ can now see underwater, at night, through walls, into biological cells, onto distant galaxies: an “unregulated gluttony” that prides itself on its “objectivity”**¶ (1988:586).¶ This disembodied visual logic is perfected in the doctrine of airpower, the dominant¶ theme of US national defense post World War II. **Kaplan** (2006a) **names this a**¶ **“cosmic view” that both uniﬁes and separates “targets” from above. The sky is the**¶ **space in which technology masters the world**. It is clean, disembodied, and a place¶ where nobody dies (that just happens on the ground). **Do we not see here a colonial**¶ **logic of “us” in the sky, versus “them” on the ground** (Amoore 2009; Gregory 2010)?¶ The drone is capable of performing (Bialasiewicz et al 2007) **this logic, through a**¶ **digital worldview of targets that dismisses ambiguity and reinforces the same old**¶ **god-trick of a view of somewhere from nowhere** (Kaplan 2006b). This is **not to say**¶ that **the sky is a space of pure deterritorialization** (Deleuze and Guattari 1987). Since¶ **the mid-twentieth century the atmosphere has become increasingly nationalized**,¶ particularly after the Cold War (Kaplan 2006b; Williams 2010). The “Revolution in¶ Military Affairs” (RMA) was a set of tactics put forward by the US military for securing¶ the future of warfare (Kaplan 2009). They include information communications,¶ space technology, satellites, drones, nano-robotics, all pivoting around the idea¶ of “network-centric warfare”. As McDonald (2007) argues, this is precisely the¶ reason that “outer space” needs to be investigated by critical geography, given¶ that social life tied to the celestial, and space-based subjectivities are increasingly¶ normalized.¶ **Orbital logics thus spill into the everyday, as does the pervasive inﬂuence of**¶ **targeting in US culture**. From the use of GIS sciences that spatialize, calculate, and¶ ﬁx Cartesian wanderings—**without a necessary appeal to the uniqueness of place**¶ **or its crumpled ontologies—to the vicarious gazing and gaming of a far-away war**¶ (Shaw 2010; Wark 2007), **targeting is now woven into the fabric of mundane**¶ **life**. GIS and GPS programs are no longer alien technologies used by armies and¶ government agencies, but shared everyday practices. As such, **the drone is not an**¶ **aberration—b**ut the apex of an expanding targeting zeitgeist. In this age, **“to be” is**¶ **to be locked within the cool certainty of a crosshair**.

#### Sovereignty must be challenged—the state of exception is the precondition to all forms of violence

Shaw 11 (Ian Graham Ronald Shaw Ph.D Geography U. of Arizona, “THE SPATIAL POLITICS OF DRONE WARFARE”, http://arizona.openrepository.com/arizona/bitstream/10150/145131/1/azu\_etd\_11524\_sip1\_m.pdf, Vance)

There are two interrelated approaches to capture the spatial complexities of FATA, Pakistan. First, the region falls under Agamben’s (1998, 2005) definition of a ‘state of exception’ – where the juridical protections of law are suspended and the sovereign is able to subject the territory to unmitigated violence and torture (e.g. Gregory 2004, 2006, 2007, 2010; Ramadan 2009). Such a reading is one that illustrates the processes through which the Pakistani government turns a ‘blind eye’ to the CIA’s bombing campaign, leaving hundreds of civilians dead in its legal shadow. Second, after Elden (2009) we can consider the state of Pakistan itself as being rendered contingent. That is, given the failings of the Pakistani government to control its territory in the face of real and perceived terrorist networks, its own sovereignty is no longer guaranteed – and in the interest of maintaining territorial integrity – international intervention is pursued. Agamben’s (1998) state of exception is a lawless space, precisely because the sovereign has mandated that it be so, and by ‘withdrawing’, the sovereign is able to enact an excess of law. The logic of sovereignty for Agamben is thus a logic founded on the very collision between an excess of law and a lack of law. This process is always already spatial, both domestically and internationally. Speaking to the former, Braun and McCarthy (2005:808) write: ‘If Guantanamo Bay revealed a democracy that was fully able and willing to use its power to cast noncitizens outside political life—a fact troubling to many but certainly not all Americans—Katrina revealed that the potential for abandoned being is present and often realized in the spaces of the nation itself, in its cities, streets, sewers, markets, housing, and hospitals’. Spaces of exception also exist around the globe, in black sites and war prisons that span an invisible geography. As Gregory (2007:226) surmises: The very language of ‘extraordinary rendition,’ ‘ghost prisoners,’ and ‘black sites’ implies something out of the ordinary, spectral, a twilight zone: a serial space of the exception. But this performative spacing works through the law to annul the law; it is not a ‘state’ of exception than can be counterposed to a rule-governed world of ‘normal’ politics and power. It is, at bottom, a process of juridical othering that involves three overlapping mechanisms: the creation of special rules that withdraw legal protections…; the calculated outsourcing of war crimes to regimes known to practice torture; and the exploitation of extra-territorial sites where prisoners are detained and tortured at the pleasure of sovereign power. If Gregory’s Agamben-fuelled critique points to a networked geography of exceptional sites, a legal-lethal space where ‘politico-juridical instruments [are used] to exempt categories of people from the responsibilities or the protections of the law’ (Gregory 2010:177), then Elden’s analytic encompasses entire states. Arguing against deterritorialized political visions, his analytic pivots on the status of territory: ‘Yet while we should certainly rethink and examine, and be open to an analysis of the new, we must not forget that the war has thus far been fought with a very conventional sense of territory in mind—territory that has been targeted, bombed, and invaded’ (Elden 2009:XX). By giving a detailed and empirically rich account of the U.N.’s progressive move towards intervention, Elden writes: ‘…a state that fails to exercise one of the standard definitions of sovereignty—effective political control of the “monopoly of legitimate physical violence” within its territory—finds that its sovereignty more generally is held to be “contingent”’ (2009:162). FATA is emblematic of this process, with the failure of the Pakistani government to control its own territory rendering the FATA region vulnerable to outside intervention–in this case–the attacks of U.S. drone army. A word of caution is necessary here. We are not saying that Pakistan deserves to be violently invaded because it fails to enact control of FATA. Nor are we saying that FATA’s ‘exceptional’ status justifies ‘exceptional’ violence. We have narrated the geo-legal history of FATA by invoking Agamben’s ‘state of exception’ not to exonerate imperial belligerence and ‘blame the victim’, but rather to disrupt chauvinistic portrayals of invaded peripheries as passive and listless when confronted with the active military might of the metropole. The Pakistani state, following its imperial predecessors, has actively created FATA as an exceptional region: an aberration that exists outside of the state’s constitutional laws. This process of judicial abandonment, an old colonial performance, has created a volatile landscape that in turn produces conditions conducive for international intervention. But the necessary twist here is that the intervention is itself exceptional in the form of the Predator drone, an object with a fetishized metaphysical status. Taken together, drone and FCR act in concert to produce the space for war in FATA, Pakistan – a topology of technology and law.

#### Weaponized drones offer a unique opportunity to reflect on the intersection between law and violence, inaugurating a broader critique of sovereignty

Pugliese 13 (Joseph [Associate professor of cultural studies @ Macquarie University]; State Violence and the Execution of Law Biopolitical Caesurae of Torture, Black Sites, Drones; 214-5; kdf)

In reflecting on the indissociable relation between law, technology and human subjects, drone technologies offer a graphic and specific instantiation of this relation. They exemplify the manner in which laws of war propel the development¶ and use of particular technologies and they evidence the way in which these¶ technologies of law are grafted onto human agents - such as pilots and sensor operators located at their remote ground stations- through a series oftele-techno¶ mediations. I would argue, however, that this prosthetics of law, and its logics of¶ somatechnical grafts that suture law, technology, and bodies into prostheticized¶ ensembles, can be extrapolated into a larger schematic understanding of law as technology and technology as law, thereby offering an alternative paradigm to¶ views that conceptualize law's relation to technology in purely instrumentalist¶ terms, views that fail to theorize the always-already prostheticized relation between¶ law, bodies, technologies and their targets.¶ A prosthetics of law is precisely what is operative across an extended micro and¶ macro continuum that encompasses everything from police Taser guns and¶ batons, CCTVs, armed riot squads, to the spaces and institutions such as courts of¶ law, prisons and detention centres. A prosthetics of law can be seen to be a critical¶ materialization of the knowledge/power nexus that Foucault terms governmentality,¶ that 'ensemble formed by institutions, procedures ... the calculations and¶ tactics that allow the exercise of this very specific albeit complex form of power,¶ which has as its target population ... and as its essential technical means apparatuses¶ of security.' 121 In the particular context that I have been examining, the¶ prosthetics of law is what is enabled by the institution of the techno-militaryindustrial-¶ security complex; it names the somatechnical relation that grafts law to¶ bodies and technologies in the deployment of apparatuses of security - both¶ internal and external to the nation-state. A prosthetics of law underscores the¶ biopolitical dimensions of technologies of law as apparatuses exercising forms of¶ normative and disciplinary power, what Foucault terms 'orthopedic instruments'¶ concerned with the 'correction, training, and taming of the body.' 122 The prosthetics¶ of law, that include such technologies as Taser guns and prisons, operate¶ precisely to correct, train and tame the recalcitrant body into a docile subject. The¶ prosthetics of laws of war operate, in biopolitical terms, to tame, correct, and to¶ liquidate those targets that inhabit the 'ungoverned' spaces of the Global South.¶ Enframed within racio-speciesist schemata and captured within the thanatological¶ ensembles of the US techno-military-industrial-security complex, the suspect¶ targets of the Global South can be exterminated with impunity in order to protect¶ and safeguard the imperial nation-state.

#### Thus Austin and I playfully submit for deliberation: In the next available test case, the Supreme Court of the United States should rule that targeted killings authorized by the President of the United States require the application of due process.

#### The Supreme Court can extend due process to those targeted for killing

Robertson 12 (Cassandra Burke Associate Professor, Case Western Reserve University School of Law, “DUE PROCESS IN THE AMERICAN IDENTITY”, Alabama Law Review 64 Ala. L. Rev. 255, Vance)

[\*280] This Part begins such a discussion. It first examines how constitutional due process can serve as a legal baseline, protecting against efforts to withhold basic legal rights from those perceived to be our enemies. It then explores arguments for extending due process rights beyond those minimum requirements and recommends expanding public discussion beyond the legality of the policies--or even their instrumental value--and moving the discussion into an examination of more fundamental questions of national identity. A. Constitutional Due Process as a Baseline This Article has asserted that legality alone is not a sufficient basis on which to make policy choices about the desirability of various counterterrorism policies. But while legality alone is insufficient, it is still important. At the most basic level, the legal doctrine of constitutional due process protects against a desire to withhold legal protections from those perceived to be enemies. n131 The Constitution protects due process rights even in the absence of a political will to do so. n132 Indeed, the Supreme Court itself has recently reaffirmed this protection in strong terms, stating that "[w]hatever the general merits of the view that war silences law or modulates its voice, that view has no place in the interpretation and application of a Constitution designed precisely to confront war and, in a manner that accords with democratic principles, to accommodate it." n133 Thus, constitutional due process does not permit withholding process from suspected terrorists, even if some might wish to do so; instead, it requires a real analysis of the actual threat to national security. Politicians and commentators who decry the extension of "our due process" n134 to terrorists may be displeased, but the Supreme Court has reaffirmed the [\*281] existence of a constitutional baseline that the war on terror has not abrogated. n135 Nevertheless, the Supreme Court's view of procedural due process is not absolute. Instead, it is fundamentally consequentialist; n136 the question of "what process is due" turns heavily on the costs and benefits of extending that process. n137 As a result, individual justices do not always agree about how to measure the benefits of extending process or how to measure the potential threats to national security. For example, when the Court took a due process approach to indefinite detention in Hamdi v. Rumsfeld, Justice Thomas disagreed with the Court's conclusion and would have weighed the potential costs more strongly. n138 He wrote that although "Hamdi has been deprived of a serious interest, one actually protected by the Due Process Clause," that deprivation must be measured against "the Government's overriding interest in protecting the Nation." n139 The consequentialist focus also makes it easier for individuals to talk past each other in a policy debate about due process in the war on terror. Observers sometimes make what is essentially a deontological argument, even while wrapping it in the trappings of a consequentialist due process perspective. As one scholar has noted, a number of those who have objected to the legality of targeted killing "lack proof for their claims about the legal, diplomatic and strategic results of drone strikes." n140 For such objectors, empirical evidence of the result of drone strikes may be beside the point; their objections may be founded on deontological grounds rather than purely consequentialist ones. Defining what is meant by "due process" in a particular argument--whether it be a consequentialist or deontological [\*282] conception, and whether the argument is founded on questions of legality or identity--can help clarify the contours of the debate. B. Policy Choices Above Baseline Due Process Clarifying the terms of the policy debate means that analysis of constitutional due process as a legal matter is only the beginning; we also need to consider questions of values and identity in deciding what process is due. The Constitution's view of procedural due process creates a floor, not a ceiling; a heightened level of due process that exceeds constitutional requirements may be awarded when there is the political will to support it. n141¶ 1. Procedural Mechanisms for Heightening Due Process¶ What would a heightened level of due process look like? First--and contrary to Liz Cheney's position--it would involve not just extending, but also expanding the due process protections offered to people suspected of terrorism. It may give the courts a greater role in determining the legality of targeted killing. n142 It may give civilian courts, in particular, a greater role in dealing with individuals who have been detained in the war on terror. n143 It would likely mean that evidence gained from torture would not be admissible in court. n144 Of course, many people have argued that these elements are already part of the baseline due process protection, and indeed they may be, but because the legalities are still uncertain, this Article recommends that policymakers consider whether due process should be heightened as a policy matter regardless of what the law may require.

#### Extending due process to noncitizens resolves the stigmatization of the terrorist Other by collapsing the distinction between “us” and “them”

Robertson 12 (Cassandra Burke Associate Professor, Case Western Reserve University School of Law, “DUE PROCESS IN THE AMERICAN IDENTITY”, Alabama Law Review 64 Ala. L. Rev. 255, Vance)

The process of social identity may be easier to understand: the "us vs. them" mentality is a common construct. n91 The tragic events of September 11, 2001, reshaped--at least for a time--the dominant ingroup and outgroup. n92 Instead of dividing along racial, political, or economic lines, the country united in an "American" identity. The outgroup, however, proved harder to define: for some, it was "al-Qaida"; for others, it was "terrorists" in general; for still others, it was "Arabs," "Middle Easterners," or "Muslims." In some cases, these distinctions were blurred. n93 A broadly defined outgroup makes it easier to refuse due process protections to individuals targeted in the war on terror. First, to the extent that due process is viewed as part of "us" or "who we are," a broader definition of "them" or "who we are not" makes it easier to limit due process protections only to a narrow ingroup. Second, a broadly defined outgroup makes it easier to conflate characteristics such as race, religion, or nationality with terrorism or crime. n94 The purpose of due process itself is to distinguish between guilt and innocence; refusing to extend due process to those presumed guilty risks recreating the witchhunts of the colonial era, in which "[m]en feared witches and burnt women." n95 Thus, as described in Part I, even though due process may be a fundamental part of the American identity, social identity theory can explain why, in some cases, people do not want to extend due process to [\*273] the outgroup. n96 For example, the political advocacy organization Keep America Safe makes the denial of a due process framework part of its mission, proclaiming that "by treating terrorism as a law enforcement matter, giving foreign terrorists the same rights as American citizens, . . . the current administration is weakening the nation, and making it more difficult for us to defend our security and our interests." n97 Liz Cheney, daughter of former Vice President Dick Cheney and founder of Keep America Safe, has repeatedly argued against due process protections in the trials of suspected terrorists. After evidence in a civilian trial against Ahmed Ghailani was excluded because it derived from "the testimony of a witness whom the government obtained only through information it allegedly extracted by physical and psychological abuse of the defendant," n98 Cheney issued a statement decrying the idea that "al Qaeda terrorists" would get "the kind of due process rights normally reserved for American citizens." n99 She argued that "insisting on trying Ahmed Ghailani in civilian court with full constitutional rights," had "jeopardize[ed] the prosecution of a terrorist" and was therefore "irresponsible and reckless." n100¶ Cheney's statement combines the concepts of social identity and due process in several ways. First, though her statement seems to account for both an expressive view of due process and a utilitarian one, she is ultimately prioritizing the expressive view; Ghailani's subsequent conviction did not change her view that civilian courts were an inappropriate forum. This expressive view of due process is closely aligned with group identity. n101 Although Cheney contrasts "due process" with "security," she is not making a cost-benefit calculation of the benefits of either approach as a policy matter; instead, she is discussing due process as a value and attaching that value to a social identity. Her statement articulates the idea that due process is something for "us" but not for "them." But who is "them"? When Cheney refers to the prosecution of "a terrorist," she seems to be limiting the outgroup just to the nation's declared enemies--or at least, since the trial had not yet reached a conclusion, to those accused by the executive branch of engaging in terrorism. But when she refers to "the kind of due process rights normally reserved for American citizens," she appears [\*274] to be making a broader distinction; in this instance, the outgroup not entitled to due process may be any noncitizen. n102 Finally, the context of her statement--the decision to exclude testimony gained through coercive interrogation--also suggests that her restriction on due process would allow coercive interrogation against members of the outgroup.¶ While Cheney's position is highly controversial even among those otherwise politically aligned with her, n103 she is not alone: Senator Scott Brown expressed a similar sentiment when he asserted that "[i]n dealing with terrorists, our tax dollars should pay for weapons to stop them, not lawyers to defend them." n104 Again, the focus on "our" tax dollars emphasizes a shared ingroup that deserves due process, in contrast to the terrorist outgroup that should not have "lawyers to defend them." These statements highlight how social identity can encourage support for limitations on due process. By emphasizing a shared identity in the war on terror and broadly defining the outgroup in a way that merges "terrorist" with "noncitizen," it becomes much easier to justify limitations on traditional due process protections. And such statements are not limited to politicians; lawyers have used similar rhetoric in legal scholarship advocating for the use of military tribunals rather than civilian courts in terrorism cases, arguing that "our" Bill of Rights was not intended to protect those who engage in terrorism. n105¶ Thus, a broad definition of the outgroup--even, perhaps, an unconsciously broad definition of the outgroup that conflates race or [\*275] religion with terrorism--can make it easier to justify a refusal to extend due process rights. And indeed, this is what many argue happened at Guantanamo, where "detainees were assigned the 'terrorist' or 'enemy' label without any semblance of what is generally considered a pinnacle of Western and international due process rights--the presumption of innocence until proven guilty." n106 In fact, U.S. military analysts have noted that up to 20% of the detainees may have been innocent civilians caught up by mistake. n107¶

#### Our advocacy exposes the paradox of convicting as terrorists those who have not yet committed terrorism, opening the law to play

Rogers 8 (Nicole, Senior Lecturer at the School of Law and Justice, Southern Cross University, “The Play of Law: Comparing Performances in Law and Theatre”, Vol 8 No 2 (QUTLJJ), Vance)

A comparison between law and theatre is not a purely whimsical one. Increasingly, as¶ Giorgio Agamben has asserted, modern Western societies resemble a Schmittian ‘state of exception’ in which the rule of law has become powerless in the face of arbitrary acts of violence on the part of the executive and the language of exceptionalism has become commonplace.1 Contemporary legal performances in the form of highly mediatised terror trials are examples of state-orchestrated spectacle, in which the violence of the state is brought to bear upon the enemy: individuals who themselves have not yet committed acts of terrorism but who are easily identifiable as terrorists due to racial and/or religious characteristics. In such a context, the question of whether and, if so,¶ how, legal performances can be uncoupled from state violence is worth exploring.¶ I shall argue that re-positioning the play of law in more playful contexts offers imaginative possibilities for such an uncoupling.¶ Theatre is commonly perceived as play but law is not, although some commentators¶ have viewed law as play.2 Generally law and play are perceived as opposite terms, as a dualism closely associated with the comparable dualism of work and play. Brian Sutton- Smith has pointed out that work is perceived as ‘sober, serious and not fun’ and play is¶ its frivolous antithesis.3 Law, which is aligned to work, can be similarly characterised. Law is, in fact, a very particular form of play. In his classic work, Johan Huizinga¶ identified the central role of play in all human culture, including in law, and coined the¶ term Homo Ludens, or Man the Player.4 According to Huizinga, culture was ‘played¶ from the very beginning’;5 he declared somewhat pompously that ‘for many years, the¶ conviction has grown upon me that civilization arises and unfolds in and as play.’6 Yet,¶ as a number of commentators have observed,7 Huizinga’s concept of play as rule-bound¶ contest8 was a limited agonistic one; his world of play could be shattered by ‘spoilsports’¶ who broke its rules.9 Many Western philosophers similarly ascribe an orderly¶ meaning to play, but for other thinkers, play can assume a different, more chaotic¶ form.10

**Playing with the law severs the relationship between law and instrumentality**

**Mills 8** (CATHERINE, PhD Australian National University History and Philosophy, “Playing with Law: Agamben and Derrida on Postjuridical Justice”, South Atlantic Quarterly 107:1, Winter 2008, Vance)

The ritualistic dimension of law is important for another reason as well.¶ Agamben insists on the impossibility of the elimination of either diachronic¶ or synchronic signification: in all games and rites, the one remains¶ a stumbling block for the other, thereby preventing the attainment of a pure¶ state of diachrony or synchrony. Thus, he writes, “at the end of the game,” the toy —the privileged signifier of absolute diachrony— “turns around into¶ its opposite and is presented as the synchronic residue that the game can¶ no longer eliminate” (IH, 79). This implies **that playing with law does not mean eliminating the law**, for there is actually a sense in which **the law is rescued from its own obsolescence in play.** **Rather than being maintained**¶ solely **in a state** **of decay** characterized by the simple lack of practicoeconomic¶ value as **law**, it **is given a new use**. But this does not take the form¶ of a resacralization of the law and restoration of transcendental meaning or¶ force. Instead, the new use of law takes the form of its deactivation or deposition.¶ Before saying more of this, it is worth cautioning against the phrase “at the end of the game” used above, for in what sense would the game in¶ which humanity plays with law have an end? To construe the game of playing with law as having an end would in fact push Agamben’s conception of¶ the messianic toward an identification with the eschatological, a conflation¶ that he explicitly resists in The Time That Remains.16 Thus, within his own¶ characterization, it would be more accurate to insist on the endlessness of play. As with the activity of study with which it is intimately related in the paragraph in question, play is interminable; it has no end beyond pleasure.¶ As Agamben writes in Idea of Prose, “**Not only can study have no rightful**¶ **end, it does not** even **desire one.”**17In fact, it is presumably the endlessness of play that allows for the noninstrumental¶ appropriation of law and ultimately its deactivation in play;¶ **that is,** the “free use” of law within play exceeds the constraints of instrumentality¶ and gives onto a justice that Agamben identifies as akin to a condition in which the world can no longer be appropriated by law. In this way,¶ the noninstrumentality and interminability of play ensure a passage to a¶ justice that is **irreducible to law.** As Agamben writes, “**The law—no longer practiced but studied—is not justice, but only the gate that leads to it**. What¶ opens a passage toward justice is **not the erasure of law, but its deactivation**¶ and inactivity—that is, **another use of law**” (SE, 64). One of the questions¶ that this raises is to what extent a deposed or deactivated law remains a¶ law. In what sense is a deposed law still a law? Agamben suggests that it¶ is this question of the status and meaning of law after its messianic fulfillment¶ that motivates Benjamin’s reflections on Kafka, in which law “no¶ longer has force or application”(SE, 63). However, this raises more questions¶ than it answers, and in particular, it leaves open what a postjuridical¶ justice arrived at through studious play might look like. We can be sure that¶ what Agamben means by “justice” does not coincide with more standard¶ jurisprudential conceptions as the proper application of law. Despite his¶ concern with questions of law, though, the concept of justice has played a¶ small part in Agamben’s work to date (at least if considered at an explicit¶ textual level), and there is little overt indication of what it would amount to¶ beyond this discussion in State of Exception. One point at which a (slightly)¶ more extended consideration of justice does appear is in an early fragment¶ in which Agamben defines justice as “the handing on of the Forgotten” and the “transmission of oblivion” (IP, 79). At first glance, this does little¶ to clarify the concept of justice that he employs, but it does point toward a¶ path of elucidation.

#### Only our resistance can overcome the nihilism of the modern age and restore a meaning to our lives beyond law

Mills 4 [Catherine, Lecturer in Philosophy at the University of New South Wales, “Contingency, Responsibility and the Law: A Response,” *borderlands e-journal* 3.1 (2004): http://www.borderlands.net.au/vol3no1\_2004/mills\_contingency.htm] // myost

8. It is precisely this recognition that underpins Giorgio Agamben’s critique of the increasing juridification of life: it is not merely that the law has been overextended in its domain of operation, such that it encroaches on more and more domains of our lifeworld, but that it has come to be wholly identified with life itself. Hence, in reference to a conflict between Scholem and Benjamin over the status of the law in Kafka, Agamben argues that the biopolitical status of law, in which law is indistinguishable from life itself, means that law is effectively ‘in force without significance’ (Agamben 1997: 51). By this, he means that in losing all transcendence the law becomes wholly identified with life and operates solely through the structure of the ban, such that the law simultaneously applies and suspends itself in its application. Agamben’s argument here, then, is not merely one of degree; it is not simply that he sees the extension of the law as been more complete than other critics of juridification. Rather, the identification of life and law has the consequence that the form of law itself is transformed. In taking up Benjamin’s insight that the exception has become the rule, he effectively posits a crisis in legitimation of the law. This crisis takes the form of nihilism, and this he argues is the danger that is becoming increasingly evident in the violence that so frequently haunts modern democracies. 9. Consequently, taking aim at his more deconstructive contemporaries, Agamben argues that the task of contemporary thought in not simply to recognize the state of abandonment in which we persist, but to overcome it. Within this he claims that it is necessary to distinguish between two forms of nihilism. (Agamben 1999a: 171) The first, which he calls ‘imperfect nihilism’ nullifies the law but maintains ‘the Nothing [that is, the emptiness of the law] in a perpetual and infinitely deferred state of validity’. (Think here of Derrida and particularly his essays on messianism and the force of law; see Mills, 2003 and forthcoming). The second form, which he calls ‘perfect nihilism’ overturns the Nothing, and does not even permit the survival of validity beyond meaning; perfect nihilism, as Benjamin states, ‘succeeds in finding redemption in the overturning of the Nothing’ (cited in Agamben 199a:171). The task that contemporary thought is faced with then is the thought of perfect nihilism, which overturns the law in force without significance that characterizes the ‘virtual’ state of exception of Western politics. 10. Importantly, the overturning of the law does not simply mean instituting a new law, and nor does it mean reinstating the lost law of a previous time ‘to recuperate alternative heredities’. (Agamben 1999b: 153) Both of these modes of progression would merely repeat the political aporia of abandonment that underpins bio-sovereign violence. Rather, the task of redeeming life from imperfect nihilism requires both the destruction of the past and the realization of ‘that which has never been’. (see Agamben 1999a, 1999b; Heller-Roazen 1999) As Thomas Carl Wall (1999: 156) writes of Agamben’s conception of the coming community, ‘without destiny and without essence, the community that returns is one never present in the first place.’ Similarly, it is only the inauguration of that which has never been, the not having been of the past, that will suffice to overturn the Nothing maintained by the law in force without significance and thereby restore human life to the unity of bios and zoe, a unity that itself has never yet been. As Agamben states ‘this – what has never happened – is the historical and wholly actual homeland of humanity’. (Agamben 1999b: 159; also see Agamben 1999c) 11. It is also in this context that Agamben’s rejection of Foucault’s gesture toward a new economy of bodies and pleasures takes on its real significance, for he sees this gesture as merely repeating the aporia of the sovereign ban and the bloody violence that attends it. Against Foucault’s provocative remarks at the end of History of Sexuality (Vol. 1) , Agamben argues that ‘the body is always already a biopolitiscal body and bare life, and nothing in it or the economy of its pleasure seems to allow us to find solid ground on which to oppose the demands of sovereign power’. (Agamben 1998: 187) In doing so, he rejects any notion of immanent resistance and argues instead for the necessity of a messianic event that disrupts the current nihilistic order without being of it. Consequently, then, he posits the necessity of the inauguration of a 'happy life', or ‘form-of-life’, understood as life restored to an original unity that has never been. For Agamben, happy life doesn’t partake in the distinction between natural life and political life, and has instead ‘reached the perfection of its own power and its own communicability’; (Agamben 2000: 114-115) happy life is life lived in the experience of its own unity, its own potentiality of ‘being-thus’. (Agamben 1993) As such, happy life amounts to the perfect nihilism necessary to the fulfilment of the task of overturning the law, which brings about the ‘small displacement’ that separates the messianic from our time. (Agamben 1999:164)

#### Given the self-constituting nature of sovereignty, the question becomes—how should we position ourselves as scholars operating in an academic space like debate? Austin and I have been repulsed by the recent framing of the drone debate: the discussion of targeted killing by politicians and the media has been utterly focused on the possibility of the assassination of “American citizens” on so-called “American soil,” all the while legitimating the daily violence visited upon bodies inhabiting the spaces called Pakistan and Yemen. We believe that our universalist criticism of the concept of citizenship is a productive form of politics: rather than asking whether sovereign power should be able to unilaterally end the life of American citizens, we ask whether murder of any kind by states ought to be tolerated.

**Critchley 7 (**Simon [Prof of Philosophy @ New School]; Infinitely Demanding: Ethics of Commitment, Politics of Resistance; Verso, p.111-114, kdf)

Keeping these examples of the political function of rights in mind, I would like to move on to the question of the state. We inhabit states. **The state** – whether national like Britain or France, a supranational quasi-state like the EU, or imperial like the USA – **is the framework within which conventional politics takes place.** Now, it is arguable that the state is a limitation on human existence and we would be better off without it. It is arguable that without state systems of government, bureaucracy, the police and the military, human beings would be able to cooperate with each other on the basis of free agreement and not merely through obedience to law. It is arguable that interwoven networks of such cooperative associations might begin to cover all fields of human activity so as to substitute themselves for the state. It is arguable that the vertical hierarchy of the state structure could be replaced with horizontally allied associations of free, self-determining human beings. Such is, of course, the eternal temptation of the anarchist tradition, particularly for someone like Kropotkin, and I will come back to anarchism in more detail below. However – to put it at its most understated **– it seems to me that we cannot hope, at this point in history, to attain a complete withering away of the state, either through concerted anarcho­syndicalist or anarcho-communist action or through revolutionary proletarian praxis with the agency of the party**. Within classical Marxism, state, revolution and class form a coherent set: there is a revolutionary class, the universal or classless class of the proletariat whose communist politics entails the overthrow of the bourgeois state. The *locus classicus* for this position is Lenin's *State and Revolution,* a text that is, in my view, fatally sundered by conflicting author­itarian and anarchist tendencies. On the one hand, in the name of the 'authentic' Marx, Lenin claims that the bourgeois state must be smashed and replaced by a democratically centralist workers' state – the dictatorship of the proletariat – but, on the other hand, he claims that this is only a pre-condition for the eventual withering away of the state in communism or what he calls the 'fullest democracy'. 29 The condition of possibility for the Leninist with­ering away of the state is the emergence of a revolutionary class, the proletariat, whom Hardt and Negri seek to update into the multitude. 30 Now**, if class positions are not simplifying, but on the contrary becoming more complex through the processes of social dislocation described** in this chapter, **if the revolution is no longer conceivable in a Marxist-Leninist manner, then that means that, for good or ill – let's say for ill – we are stuck with the state. The question then becomes: what should our political strategy be with regard to the state, to the state and states that we're in**? In a period when the revolutionary proletarian subject has decidedly broken down, and along with it the political project of a withering away of the state, I think that **politics should be conceived at a *distance* from the state**.31 Or, better, **politics is the praxis of taking up distance with regard to the state, working independently of the state, working in a situation. Politics is praxis in a situation and the labour of politics is the construction of new political subjectivities, new political aggregations in specific local­ities, a new dissensual *habitus* rooted in common sense and the consent of those who dissent**. In addition to the examples of the politics of indigenous rights discussed above, this is arguably a description of the sort of direct democratic action that has pro­vided the cutting edge and momentum to radical politics since the days of action against the meeting of the WTO in Seattle in 1999 and subsequently at Prague, Nice, Genoa, Quito, Cancun and elsewhere. 32 In **the face of the massive re-territorialization of state power in the West after 9/11, this movement has continued in the huge mobilizations against US and UK intervention in Iraq**, and in numerous other protests, **such as the opposition to the Republican National Convention in New York in late summer 2004. Despite obvious electoral failures, it is the experience of such mobilizations that provides, in my view, the ethical energy for a remotivation of politics and future democratic organization.** However, to **forestall a possible misunderstanding, this distance from the state is *within* the state, that is, within and upon the state's territory. It is**, we might say, **an *interstitial* distance, an internal distance that has to be opened from the inside. What I mean, seemingly paradoxically, is that there *is* no distance within the state.** In the time of the purported 'war on terror', and in the name of 'security', state sovereignty is attempting to saturate the entirety of social life. The constant ideological mobilization of the threat of external attack has permitted the curtailments of traditional civil liberties in the name of internal political order, so-called 'home­land security', where order and security have become identified. Such is the politics of fear, where the political might be defined with Carl Schmitt as that activity which assures the internal order of a political unit like a state through the more or less fantastic threat of the enemy. 33 Against this**, the task of radical political articulations is the *creation* of interstitial distance within the state territory. The Mexican example of indigenous identity discussed above is a powerful instance of the creation of such a distance, an act of political leverage where the invocation of an international legal convention created the space for the emergence of a new political subject**. Similarly, political activism around the so-called illegal immigrants in Paris, the sans-papiers, is the attempt to create an interstitial distance whose political demand – **'if one works in France, one is French' – invokes the principle of equality at the basis of the French republic. One works within the state against the state in a political articulation that attempts to open a space of opposition.** Perhaps it is at **this intensely situational, indeed local level that the atomizing, expropriating force of neo-liberal globalization is to be met, contested and resisted. That is, resistance begins by occupying and controlling the terrain upon which one stands, where one lives, works, acts and thinks. This needn't involve millions of people. It needn't even involve thousands. It could involve just a few at first. Resistance can be intimate and can begin in small affinity groups. The art of politics consists in weaving such cells of resistance together into a common front, a shared political subjectivity. What is going to allow for the formation of such a political subjectivity – the hegemonic glue, if you will – is an appeal to universality, whether the demand for political representation, equality of treatment or whatever. It is the hope**, indeed the wager, of **this book that the ethical demand described above – the infinite responsibility that both constitutes and divides my subjectivity – might allow that hegemonic glue to set into the compact, self-aware, fighting force that motivates the subject into the political action spoken** of in the epigraph to this chapter.

#### Because of this, the role of the ballot for this debate is to vote for the team which best situates ethics beyond the law

Agamben 0 [Giorgio, professor of aesthetics at the University of Verona in Italy, *Means Without End: Notes on Politics*, p. 93-95] // myost

Exposition is the location of politics. If there is no animal politics, that is perhaps because animals are always already in the open and do not try to take possession of their own exposition; they simply live in it without caring about it. That is why they are not interested in mirrors, in the image as image. Human beings, on the other hand, separate images from things and give them a name precisely because they want to recognize themselves, that is, they want to take possession of their own very appearance. Human beings thus transform the open into a world, that is, into the battlefield of a political struggle without quarter. This struggle, whose object is truth, goes by the name of History. It is happening more and more often that in pornographic photographs the portrayed subjects, by a calculated stratagem, look into the camera, thereby exhibiting the awareness of being exposed to the gaze. This unexpected gesture violently belies the fiction that is implicit in the consumption of such images, according to which the one who looks surprises the actors while remaining unseen by them: the latter, rather, knowingly challenge the voyeur’s gaze and force him to look them in the eyes. In that precise moment, the insubstantial nature of the human face suddenly comes to light. The fact that the actors look into the camera means that they show that they are simulating; nevertheless, they paradoxically appear more real precisely to the extent to which they exhibit this falsification. The same procedure is used today in advertising: the image appears more convincing if it shows openly its own artifice. In both cases, the one who looks is confronted with something that concerns unequivocally the essence of the face, the very structure of truth. We may call tragicomedy of appearance the fact that the face uncovers only and precisely inasmuch as it hides, and hides to the extent to which it uncovers. In this way, the appearance that ought to have manifested human beings becomes for them instead a resemblance that betrays them and in which they can no longer recognize themselves. Precisely because the face is solely the location of truth, it is also and immediately the location of simulation and of an irreducible impropriety. This does not mean, however, that appearance dissimulates what it uncovers by making it look like what in reality it is not: rather, what human beings truly are is nothing other than this dissimulation and this disquietude within the appearance. Because human beings neither are nor have to be any essence, any nature, or any specific destiny, their condition is the most empty and the most insubstantial of all: it is the truth. What remains hidden from them is not something behind appearance, but rather appearing itself, that is, their being nothing other than a face. The task of politics is to return appearance itself to appearance, to cause appearance itself to appear. The face, truth, and exposition are today the objects of a global civil war, whose battlefield is social life in its entirety, whose storm troopers are the media, whose victims are all the peoples of the Earth. Politicians, the media establishment, and the advertising industry have understood the insubstantial character of the face and of the community it opens up, and thus they transform it into a miserable secret that they must make sure to control at all costs. State power today is no longer founded on the monopoly of the legitimate use of violence — a monopoly that states share increasingly willingly with other nonsovereign organizations such as the United Nations and terrorist organizations; rather, it is founded above all on the control of appearance (of doxa). The fact that politics constitutes itself as an autonomous sphere goes hand in hand with the separation of the face in the world of spectacle — a world in which human communication is being separated from itself. Exposition thus transforms itself into a value that is accumulated in images and in the media, while a new class of bureaucrats jealously watches over its management.

#### Our engagement with the law is crucial for a new ontology that offers a way out of the paradox of sovereignty

Edkins 7 [Jenny, Professor of International Politics at Aberystwyth University in Wales, “Whatever Politics,” *Giorgio Agamben: Sovereignty and Life*, eds. Matthew Calarco and Steven DeCaroli, 2007, p. 84] // myost

What is crucial here is whether the alternative Agamben proposes is¶ radical enough. Does it entail a refusal of the machine, or merely a reinstatement¶ of it with a different "definition" of what it means to be human?¶ In The Open, Agamben does seem to reject Heidegger's problematic separation¶ of Dasein, as a being that can see the open, from the animal, poor in world, that cannot.45 Ultimately, Agamben appears to be arguing that¶ any negation of the machine cannot be accomplished on a philosophical¶ plane, but only in terms of practice. In the end, practice or human action,¶ not philosophy, is what counts. Ontology and philosophy are to be considered only to the extent that they are political operators and, specifically,¶ biopolitical weapons in the service of the anthropological machine¶ of sovereignty.¶ In order to try to stop the biopolitical machine that produces bare life,¶ what is needed is human action, "which once claimed for itself the name of¶ 'politics'" (SE, 88). It is because there is no necessary articulation "between¶ violence and law, between life and norm," that it is possible to attempt to¶ interrupt or halt the machine, to "loosen what has been artificially and violently¶ linked" (SE, 87). This opens a space for a return not to some "lost¶ original state" but to human praxis and political action (SE, 88).

**The demand for an instrumental adoption of the resolution is borne of a technocratic post-politics which disqualifies dissent**

**Swyngedouw 8** (Erik [Geography dept, School of Environment and Development @ University of Manchester]; Where is the Political; March; D<http://www.socialsciences.manchester.ac.uk/disciplines/politics/research/hmrg/activities/documents/Swyngedouw.pdf>; Vance)

Propelled on by a drive towards reflexivity, the need to make decisions on processes with high risk low probability (Beck’s risk society thesis) on the one hand and the injunction to choose in the absence of any grounding or guarantee in truth, transfers administrative powers increasingly to a technocratic-scientific elite who is supposed to know and (cap)able to manage the situation. While difficulties and problems are staged and generally accepted as problematic (such as, for example, climate change, social exclusion, economic competitiveness, and the like), they need to be dealt with through compromise, managerial and technical arrangement, and the production of consensus. Consensus, in a very precise sense, is for Rancière the key condition of post-politics: “Consensus refers to that which is censored … Consensus means that whatever your personal commitments, interests and values may be, you perceive the same things, you give them the same name. But there is no contest on what appears, on what is given in a situation and as a situation. Consensus means that **the only point of contest lies on what has to be done as a response to a given situation**. Correspondingly, dissensus and disagreement don’t only mean conflict of interests, ideas and so on. They mean that there is a debate on the sensible givens of a situation, a debate on that which you see and feel, on how it can be told and discussed, who is able to name it and argue about it … It is about the visibilities of the places and abilities of the body in those places, about the partition of private and public spaces, about the very configuration of the visible and the relation of the visible to what can be said about it … Consensus is the dismissal of politics as a polemical configuration of the common world” (Rancière 2003b: §4- 6). Consensus, as the “the annulment of dissensus” announces the “end of politics” (Rancière 2001: §32). This post-political world eludes choice and freedom (other than those tolerated by the consensus). However, consensus does not equal peace or absence of fundamental conflict (Rancière 2005a: 8). Indeed, in the absence of real politicization, the only position of real dissent is that of either the traditionalist or the fundamentalist. The only way to deal with them is by sheer violence, by suspending their ‘humanitarian’ and ‘democratic’ rights. The post-political relies on either including all in a consensual pluralist order and on excluding radically those who posit themselves outside the consensus. For the latter, as Agamben (Agamben 2005) argues, the law is suspended; they are literally put outside the law and treated as extremists and terrorists: those who are not with us are irremediably against us, they constitute the enemy. Invoking the Whole/the One of the people, while denying the constitutive antagonisms and splits within the people and that cut through the social order, post-political governance is necessarily exclusive, partial, and predicated upon outlawing those that do not subscribe to the consensual arrangement. That is exactly why for Agamben ‘the Camp’ has become the core figure to identify the condition of our time. In other words, a Schmittian ultrapolitics that lurks behind and underneath the post-political consensual order and does not tolerate an outside, that sutures the entire social space by the tyranny of the police (state) and squeezes out the political, pits those who ‘participate’ in the instituted configurations of the consensual post-political order radically against those who are placed outside, like the sans-papiers, political islam, radical environmentalists, communists and alterglobalists, or the otherwise marginalized. The riots in the suburbs of France’s big cities in the fall of 2005 and the police responses to this event were classic violent examples of such urban ultra-politics (see Dikec, 2007). This post-political consensus, therefore, is radically reactionary as it forestalls the articulation of divergent, conflicting, and alternative trajectories of future socio-environmental and socio-spatial possibilities and assemblages. There is no contestation over the givens of the situation, over the partition of the sensible, there is only debate over the technologies of management, the arrangements of policing, the configuration of those who already have a stake, whose voice is already recognized as legitimate. Consider, for example, how current climate change policy aims to retro-fit the climate with technological-managerial interventions in order to continue as before, in order to make sure nothing changes fundamentally (see (Swyngedouw 2007a), so that things go on as before! (Dean 2006).