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## **Waging War on the Citizen State Sovereignty, Citizen Death and the War on Terror**

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### **Theorizing Global War –Distorting Membership**

*Contemporary wars belong to a new moment and can hardly be understood through earlier theories of “contractual violence” or typologies of ‘just’ and ‘unjust’ wars... Wars of the globalization era do not include the conquest, acquisition and takeover of a territory among their objectives. Ideally, they are hit-and-run affairs. –Mbembe (2003: 30)*

One of the defining features of the contemporary era is the occurrence of non-localized warfare, in which the enemy can be considered fluid and always changing. The above quote reminds us that history has provided multiple examples of how wars are apt to change and shift the foundations of states; but there is something unique to be said about the qualities of modern war and the change it has prompted. A military technological revolution has culminated in the unprecedented use of drones as primary agents of war (specifically in the “War on Terror”), which has in turn shifted the traditional relations of conflict.

It is no longer necessary to be ‘at war’ solely with states, it can now be waged against the individual, giving modern warfare one of its most striking qualities – a reformulation of *the right to kill*, usually reserved for the state’s use of a traditional standing army.<sup>1</sup> President Obama has conceded that this shift in the nature of war has had substantial consequences, if only in reference to shielding governments from the scrutiny warranted in placing troops on the ground.<sup>2</sup> This shift in the conduct of war has complicated the disposition of states toward individual bodies as the aim of globalized war can be taken as “force[ing] the enemy into submission regardless of the immediate consequences, side effects, and ‘collateral damage’ of the military actions.”<sup>3</sup> Global War has blurred the lines of internal vs. external conflicts and this raises multiple questions for the citizen and her rights. The first of these is whether the rules of territorial sovereignty are being upheld and if not, do the distinctions between insider vs. outsider and thus friend vs. enemy become even more difficult to qualify? The rights and claims associated with geographically demarcated boundaries cannot be applied in the midst of a war in which the boundaries have little meaning in deciding who and where to attack. Second, of what use is it to categorize some as civilians when the rights accorded to this group are administered through the bonds of a territorial state and the value of this demarcation has equally been rendered ambiguous? And finally, the emergence of drones in war has made for more targeted killings; the individual can now be identified, sought out and eliminated all without a single soldier on the ground. Does this lack of physical human presence create a problem for the application of just war principles? As Mbembe states, “Technologies of destruction have become more tactile, more anatomical and sensorial, in a context in which the choice is between life and death.”<sup>4</sup> Mbembe is referring here to standing armies and describes them as ‘war machines’, but human bodies are quickly being replaced by technology,

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<sup>1</sup> Mbembe, “Necropolitics.” 31.

<sup>2</sup> BBC News, “Barack Obama Defends ‘just War’ Using Drones.” (2013)

<sup>3</sup> Mbembe, “Necropolitics.” 31.

<sup>4</sup> Mbembe, “Necropolitics.” 34.

and drones have allowed for the decision between life and death to be more effectively delivered. The answer is always death given the detached nature of these attacks.

In previous military encounters there was a need to ‘control bodies’, but with the development of new technology the need for discipline apparatuses<sup>5</sup>, as described by Foucault, can easily be replaced by a more efficient signature of sovereign rule – what Mbembe calls “the order of the maximal economy... represented by the ‘massacre’<sup>6</sup>. In order to maximize what is seen as the desired outcome in maintaining power over a population, the state has significantly reduced its possibilities for ‘error’. In other words, it is much easier to eliminate the problem when the prevailing rule holds that those who are identified as enemies can and should be eliminated without question. Efficiency, in terms of killing the unwanted – including citizens – is not a new phenomenon but the difference here is in the attempt to redefine the language of ‘necessity’, ‘imminence’ and ‘threat’ in the legal framework, and parade this new meaning as legitimate.

The killing of citizens may prove to be the most effective way of maintaining power, but this can hardly last long, as state legitimacy rests partly on a duty to the citizenry, and certainly in maintaining that citizenry. Mbembe speaks of the ‘*logic of survival*’, in which “each man is the enemy of every other [and] it is the death of the other, his or her physical presence as a corpse, that makes the survivor feel unique. And each enemy killed makes the survivor feel more secure.”<sup>7</sup> In a contest between bodies, the desire for survival leads to the destruction of the other, and the state’s appropriation of this logic is highly problematic. In this case, its effect on one of the fundamental elements in the citizen-state relation, the duty of the state to its people, is lost within the rhetoric of state security and national defence. As we move out of the realm of state-state conflict, it becomes easier to accept the ‘logic of survival’ as a plausible basis for contemporary wars. The war on individuals, as enemies, cannot follow the boundaries of states; in fact the primary aim is to remove any boundaries that hinder this kind of attack. In keeping with this logic, however, the state itself is not immune to the possibility of the individual enemy being found within its own borders. In following the ‘logic of survival’, security would be guaranteed only in their death, even if this requires a violation of one’s boundaries (domestic law). “*Necropolitics is the subjugation of life to the power of death*,”<sup>8</sup> Mbembe’s premise remains relevant to the occurrence of modern wars and particularly that of the “War on Terror”. What he terms ‘necropower’, can be seen as blurring any distinction between “resistance and suicide, sacrifice and redemption, martyrdom and freedom.”<sup>9</sup> The administration of death becomes a matter of peripheral importance due to killing itself being considered the only possible act. It is in this way that necropower is, as Mbembe states, indistinguishable from death. One kind of killing then becomes indistinguishable from others – be it murder, punishment, revenge, or defence. Under the conditions of necropower the citizen and the enemy might be subject to the same death. The killing of citizens is often carried out, but the deliberate attempt of the state to place all killings within similar parameters, that of citizens, enemy combatants, and so on makes this particular act a point of interest and concern. In making the stakes in the “War on Terror” appear as all or nothing (life or death); the particularities of killing become irrelevant as long as the death fulfills the aims of state security. The effect of this is an inability to discern ‘enemy’ from ‘friend’, which then requires either an assumption of everyone as enemy or everyone as friend, and it is the former which is most likely to occur.

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<sup>5</sup> Foucault, “*The Birth of Biopolitics: Lectures at the College de France 1978-9*.” (2010)

<sup>6</sup> Mbembe, “*Necropolitics*”, 34.

<sup>7</sup> Ibid. 36

<sup>8</sup> Mbembe, “*Necropolitics*.” 39

<sup>9</sup> Ibid. 40

*The danger is that a global, universally interrelated civilization may produce barbarians from its own midst by forcing millions of people into conditions which despite all appearances, are the conditions of savages.<sup>10</sup>*

The enemy can no longer be readily identified, because the transgressions of the state no longer exist in isolation. This is reminiscent of empire in many ways, and forces us to consider whether we have yet again reached a point in human history where the interconnectedness of our world makes this potential enemy no longer exclusively an outsider but rather a product of the society itself. What we are seeing (and will see in the cases outlined) are state officials working across borders in order to secure their interests in such a way that renders all citizens of multiple states susceptible to a similar violence – a violence that has typically remained outside the realm of law, but of this we can no longer be sure. When the globally crafted and locally grounded ‘threat’ appears as the figure of a citizen, what is the course of action to be taken by states? Will state officials respond with the tradition of stripping citizenship before targeting, attacking, or killing? “Denaturalization” en masse, as Hannah Arendt described, is no longer a viable option for states and cannot wholly eliminate its problem. The enemy-citizen is much too pervasive for this type of broad targeting. The avenue of choice is beginning to resemble a legally justifiable and highly specialized attack on the citizen. State sovereignty has become a question of death – even if that death impinges on the rights of the citizen-body. The complexities of the “War on Terror” unfortunately cannot be explored in full here, but it still requires mention in order to understand the increasingly necropolitical stance of the United States and its allies. Paraphrasing Jean-Paul Sartre’s seminal essay on anti-Semitism, Joseph Pollack states: “Anti-Semitism is about everything except Jews, here, counterterrorism is about everything but terrorists, and if we didn’t have al Qaeda and “its affiliates” to contend with, we would have had to invent them as part of our desperate attempt to remain the unilateral dominant power on the global stage.”<sup>11</sup> Counterterrorism and all that falls under this umbrella serve the purpose of securing a ‘Western’ (American) Empire and many have engaged this questioning in their respective works<sup>12</sup>. That being said, it comes as no surprise that in an effort to secure the interests of empire, death becomes the most viable option. The “War on Terror” and its growing importance in the pursuit of empire are major contributors to a greying of the citizen category.

It is possible to discern changes in citizenship as a category if we consider how the global nature of the “War on Terror” and the multiple levels of involvement by other states have complicated questions of sovereignty, security and the idea of what constitutes a threat. One example of this is the United States’ use of strategic military bases around the world. Often countries like Djibouti are forced into agreements with the United States government in which US personnel are exempt from local jurisdiction in the commission of crime.<sup>13</sup> Incidentally, governments in many places<sup>14</sup>, Djibouti included, were apt to place restrictions on the U.S.’s ability to carry out lethal operations from its territory, allowing for secret bases, instituted through the C.I.A,<sup>15</sup> to crop up in nearby Saudi Arabia.

<sup>10</sup> Arendt, “*The Decline of the Nation-State and the End of the Rights of Man*”, 384.

<sup>11</sup> Pollack, “*Drones, Africa and the Decline of American Power*.” 2

<sup>12</sup> This is in reference to the work of Joseph Pollack, Tariq Ali and many others.

<sup>13</sup> Pollack, “*Drones, Africa and the Decline of American Power*.” 1

<sup>14</sup> The Pentagon in a statement revealed that there are approximately 600 overseas military bases, spanning across all continents. (See Daily Mail article “Almost all the U.S. Army’s secret military bases across the globe revealed on Google and Bing” 2013)

<sup>15</sup> The significance of the C.I.A –an intelligence gathering unit –having its own military base is that its own structure is not equipped to handle the carrying out of such tasks. The unit was intended for gathering information and relating this information to either policy makers or branches of the U.S. government. In fact, the National Security Act of 1947 indicated the C.I.A had no police or law enforcement powers and specified this was neither at home nor abroad. (See *Office of Policy Coordination 1948-1952*)

Clouded in secrecy, these bases allowed for the targeted killing of whomever the U.S. identified as a 'threat' to be easily coordinated. Anwar al-Awlaki and his son, both U.S. citizens and both killed in drone strikes from a Saudi Arabian base<sup>16</sup>, fell victim to this blurring of national borders and the fluidity of U.S. sovereignty. The United States' "War on Terror", and subsequently the reach of U.S. sovereignty, is not confined to a geographically demarcated United States of America. Predictably, it also does not engage in this war in designated 'hot-zones', because a war against the individual is not regionally specific, allowing for multiple sites of 'battle', multiple sites needing protection and a stretching of the 'threat' that reaches all areas of the world.

Sovereignty, as many scholars have pointed out, no longer ends at the border<sup>17</sup>, but extends well beyond it. In the case of American sovereignty, it procures distant lands to serve the aims of its sovereign power. In the case of the secret Saudi Arabian drone base, acquiring this space and placing it under the surveillance arm of the American government is evidence of the ever-extending reach of this sovereignty. Any interference with American imperial projects are targeted and eliminated – although the terms most recently dictated in the DOJ White Paper point to the explicit illegitimacy of state action in the "War on Terror".<sup>18</sup> The question remains: what will be the outcome of this war? The growing number of 'threats from within' can be considered evidence of the realities facing a declining power (and its allies), but beyond that it has very specific implications for individuals within the consortium of liberal democratic states.

There are some who believe that the issue of 'threats from within' is the product of a rise in terrorists' access to media platforms and a spreading of their message so to speak, but this line of inquiry ignores the broader picture. Evan Kohlmann speaks of what he calls, "Homegrown terrorist networks, [as] not simply belaboring over lone eccentrics who may have once incidentally crossed paths with the Anarchist cookbook... [but] purposefully provided [with] a wealth of information – accessed primarily over the Internet –that contains remarkably specific instructions on how to 'virtually' join Al Qaeda."<sup>19</sup> While I do agree with Kohlmann's assertion that homegrown terrorism is a far deeper issue than a presumably 'lone wolf' epidemic, I believe he places his emphasis on the wrong aspect of the issue: online recruitment. Kohlmann misconstrues the negative effects of empire on the marginalized both within and outside (American) society and overlooks the at-times banality of groups like Al Qaeda. The sudden rise and radicalization of "young men and women [who are] by and large –not poor, nor destitute, nor uneducated,"<sup>20</sup> cannot be solely nor majorly attributed to the recruiting capabilities of Al Qaeda, the problem is much more essential. Zygmunt Bauman's conceptualization of *human waste* does well to account for what may drive individuals who are marginalized by society into subversive action. As per Rancière's formulation, those left over by society are the perfect figures on which to test the boundaries of rights. But the individuals Kohlmann speaks of are not located in some remote location in the Middle East, but are much closer to home – even striking in the heart of London<sup>21</sup> – as such they place the horrors of foreign war squarely in the middle of the Western reality. But the killing of citizens to take hold through the White Paper's framework – painting citizens as potential threats to state sovereignty – has rarely been seen outside of the usual framing of exceptionality.<sup>22</sup> A discussion must be had of how citizenship is understood, and

<sup>16</sup> Mazzetti &co. "How a U.S. Citizen Came to be in America's Crosshairs." (2013)

<sup>17</sup> Nyers, "Abject Cosmopolitanism: The Politics of Protection in the Anti-Deportation Movement." (2003)

<sup>18</sup> The suggestion in the White Paper is one of 'approving any action done onto American citizens without consequence or investigation.'

<sup>19</sup> Kohlmann, "Homegrown Terrorists: Theory and Cases in The War on Terror's Newest Front", 102.

<sup>20</sup> Ibid. 96

<sup>21</sup> Ibid. 96

<sup>22</sup> A case of this exceptional practice can be found in the Japanese-American internment beginning in 1942, in which Franklin D. Roosevelt signed the Executive Order No. 9066 calling for the roundup of over 120,000 American of Japanese descent (mostly citizens) and placing them in camps –officially



even more pressing, an examination of the plans by the Obama administration to subject the citizen body to a covertly decided, non-appealable death sentence.

In trying to understand the process of a changing citizenship, I will examine, in contrast to those works that discuss the unraveling of the state from the perspective of the refugee, those that aim to identify the authoritarian measures employed by the state. As per Agamben's formulation, it is important to make reference to the figure of the refugee. This figure, being uniquely situated, is the only one whose rights can be guaranteed by the international community. Their bonds to the (home) state have already been broken, making their experience stratified in terms of their appearance as political subjects. Agamben writes,

*Given the by now unstoppable decline of the nation-state and the general corrosion of traditional political-juridical categories, the refugee is perhaps the only thinkable figure for the people of our time and the only category in which one may see today –at least until the process of dissolution of the nation-state and its sovereignty has achieved full completion – the forms and limits of a coming political community.<sup>23</sup>*

Looking to the refugee, it is possible to understand the change in how rights – in relation to the citizen – are being understood by the state. Due to the formulation of the Rights of Man as indissolubly linked to the nation-state, many have taken this to mean that the existence of the latter is necessary for the security of the former,<sup>24</sup> and this is true. But what Rancière has set out for us as the open political predicates which indicate 'right' and Agamben's indication of the vanishing presupposition of man into citizen in order to receive rights,<sup>25</sup> together imply state responsibility in a way that has not been explicitly taken up. Nation-state citizenship is founded upon an idyllic principle of the allocation of, and vehicle through which to exercise, rights. In that sense, the refugee and the *sans-papiers* are incomprehensible to the state, and must establish a relation with the international community in order to access those rights. The human being remains within the shadow of the citizen, so long as the figure of the citizen is the bearer of rights. Drawing from this understanding, if citizenship fails to provide humanity with rights and the citizen is not yet understood at the global level then it is possible to conceive of the killing of citizens by the state. The rights accorded to citizens are defined in terms of a political community's spatial reality and ties (i.e. borders and domestic law). The ambiguities witnessed in the global "War on Terror" have led precisely to a testing of states' spatial boundaries and those ties. As state boundaries have proved less substantial, the relation of the state to the citizen becomes equally unsubstantiated. Bringing the "War on Terror" home is conceivable in a world where the insider/outsider dichotomy is blurred so as to include citizens among the outsiders, and outsiders among the citizens. Agamben touches on this idea in relation to the performance of citizenship, but nonetheless arrives at a similar conclusion, *"The citizens of advanced industrial states demonstrate...an evident propensity to turn into denizens, into non-citizen permanent residents, so that citizens and denizens –at least in certain social strata –are entering an area of potential indistinction."*<sup>26</sup> We will take his conclusion and apply it to other cases where citizen rights are being compromised and to the legitimizing of citizen death in the DOJ White Paper. This indeed would create an area of indistinction in which citizens could become unrecognizable from their non-citizen

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called "relocation centers". The questions of a violation of Fifth Amendment rights was brought forward in two cases but inevitably were turned down as the courts ruled this a matter of national-defense. (see Japanese Relocation Centers, *InfoPlease* 2007)

<sup>23</sup> Agamben, "Beyond Human Rights" 15.

<sup>24</sup> Ibid. 18

<sup>25</sup> Ibid. 20

<sup>26</sup> Agamben, "Beyond Human Rights" 32.

counterparts and ultimately the benefits of this blurring are already witnessed in the execution of the United States' military attacks.

### **Beyond Governmentality – States and the sovereign power over death**

A discussion of the proliferation of drones in war is needed in order to develop a better understanding of the state's current actions. Drones embody an idea of 'efficiency', which I will argue is the avenue of choice in the structuring of our contemporary society. As we create advanced technology to carry out tasks more easily, the logic of efficiency itself becomes incorporated in our daily lives. We are taught to strive for efficiency in all aspects of work, and it proves no different in the conduct of states; they have attempted to make efficient every facet of their rule and this includes the military's use of drone technology. The societies of control that Deleuze spoke of, in which the signature feature is an ability to modulate populations<sup>27</sup> as a method of asserting state power, cannot provide us with the dominant logic if drone technology becomes a permanent fixture of sovereign power. The use of drones and the changing nature of war will significantly affect our conceptualization of citizenship due to the inability of unmanned aerial vehicles to distinguish between individuals. Despite the Obama administration's claim to highly-skilled 'surgical strikes',<sup>28</sup> many are killed in the process, including citizens who were not directly targeted.<sup>29</sup> This figures into my concern of just how citizenship is affected and how this has translated from the death of civilians in a war zone; into a killing of the state's own citizens in an act of 'war', against those perceived as enemies. The drone program, as it stands, is simply further reflection of our detachment from the material quality of death. Mbembe notes, "Nazism and Stalinism did no more than amplify a series of mechanisms that already existed in Western European social and political formations."<sup>30</sup> Similarly, the attack on the body of the citizen is not the product of this drone usage, but rather this phenomenon of drone usage has amplified the already present distortions of citizenship and the Rights of Man present in society. By removing the act of killing from the physical reality of a battlefield, it is also removed from the realm of humanity and ethics.<sup>31</sup> The struggle over human bodies is deleted from the equation of war and replaced with various technologies. This development must be acknowledged as having some effect on our understanding of the concept of death and subsequently how its presence is dealt with. An inability to relate to those bodies, those absent from the minds and view of the assailants, makes it easier to hold no value in their life. This distortion of 'Just War theory' is an important step toward the killing of citizens, evident in the inability of unmanned aerial vehicles to be subject to the 'rules of war'.

Just War theory requires that war is waged only when found to be absolutely necessary, that the pursuit of destruction is a last resort and only against those who have taken up arms, and never against civilians.<sup>32</sup> The use of drones and the peculiar nature of the "War on Terror" complicate the use of 'necessity' and 'civilian' as terms of identification. Necessity becomes an absurd question when bombs are being dropped on targeted complexes in dormant deserts, and civilian status is an equally absurd question for an unmanned aerial vehicle given the incredibly high casualty rate in these attacks. A recent tally by the Bureau of Investigative Journalism shows a count upwards of 970 civilian deaths from 2002-2013 in Pakistan, Yemen and Somalia (solely what is being reported)<sup>33</sup>. The problem with

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<sup>27</sup> Deleuze, "Postscript on the Societies of Control." (1992): A discussion of discipline societies via Foucault

<sup>28</sup> Walsh, "Civilian Deaths in Drone Strikes Cited in Report." (2013)

<sup>29</sup> This is making reference to the killing of Awlaki's son, Abdulrahman in a drone strike separate from that of his father's.

<sup>30</sup> Mbembe, "Necropolitics", 32.

<sup>31</sup> Andersen, "Cyber and Drone Attacks May Change Warfare More Than the Machine Gun", 1.

<sup>32</sup> Ibid. 2

<sup>33</sup> "Drone Warfare." *The Bureau of Investigative Journalism* (2013)

using past theories of war to engage in a discussion about what is ‘just’ ignores the realities of contemporary war, and makes it much harder to claim that which is not explicitly in violation of the rules of conduct as unethical. Exposing the impracticality of Just War principles in the case of drone warfare is not a simple task, and the drafters of the white paper document are of course well aware of this and constantly invoke ‘just war principles’ in light of the *lack* of “prohibition under laws of war on the use of technologically advanced weapons systems in armed conflict –such as pilotless aircrafts.”<sup>34</sup> The principles themselves, outlined in the white paper as necessity, distinction, proportionality and humanity (the avoidance of unnecessary suffering)<sup>35</sup> cannot be separated from the context of traditional military encounters, with identifiable enemies and geographically-defined war zones. Drones distort this typology – physical contact is no longer a hallmark of warfare and death is relegated to the virtual realm (for one side at least). Obama has employed this terminology in his own discussion of drone warfare calling the War on Terror a “just war”<sup>36</sup>, indicating his intentional or at the very least negligent distortion of the concepts of “necessity” and “civilian”. Aside from the discordant use of these categories there is also the problem of accountability. There has been little discussion of who should be held responsible in the case of drones killing civilians,<sup>37</sup> and the confusion surrounding accountability in the face of new technology indicates a further detachment from the material realities of these attacks. Here the attempt is to make the relationship between death and state action appear in the public sphere as nothing more than apolitical official statistics. Accountability and responsibility in wars past has led to the cultivation of guilt and this emotional reaction has been the cause of much dissent. But in the age of industrialized war, with its absence of guilt, the bodies of millions appear as nothing more than “*Simple relics of an unburied pain, empty, meaningless, corporealities, strange deposits plunged in cruel stupor,*”<sup>38</sup> and the greater population finds it harder to react to the atrocities of war. This leaves people blind to the repressive tactics employed in this war. The impersonal nature of the technology leaves most incapable of relating, even when the dangers of being targeted are gradually hitting closer to home.

Technology has made significant changes to the way people interact with each other, in terms of daily life and with the broader world. One of the most revolutionary aspects of this change has been the shift from a physical reality to one that is split between the physical world and the growing importance of a cyberspace. This has impacted general views on the state and warfare. The state itself is dealing with this split reality, and it has proven to be both to its benefit and detriment that physical spaces no longer determine the reach of states. A noted benefit of this is the wider range of tactics available, and we have seen this fairly recently with the exposure of the National Security Agency’s illegal surveillance of emails and phone calls of US citizens with no ‘terror related’ suspicions.<sup>39</sup> In an effort to uncover terror plots, the NSA was given legal authority to collect data by means of monitoring fiber-optic cables in the US. But as would later surface, the reality of preemptively separating foreign from domestic emails, as well as those involved in terror related activity from the general public, is infeasible. The result was massive stores of private information on US citizens being collected without cause.<sup>40</sup> This trend toward a weakened distinction between citizen and foreigner in terms of their understanding within the system of rights is intricately linked to the history of a hyper-

<sup>34</sup> Andersen, “Cyber and Drone Attacks May Change Warfare More Than the Machine Gun”, 9.

<sup>35</sup> Ibid. 8

<sup>36</sup> BBC News, “Barack Obama Defends ‘just War’ Using Drones.” (2012)

<sup>37</sup> Andersen, “Cyber and Drone Attacks May Change Warfare More Than the Machine Gun”, 2.

<sup>38</sup> Mbembe, “Necropolitics”, 35.

<sup>39</sup> Bell, James, and Spencer Ackerman. “NSA Loophole Allows Warrantless Search for US Citizens’ Emails and Phone Calls.” (2013)

<sup>40</sup> De Luce. “US Admits Electronic Spying on Americans Was Illegal.” (2013)



securitized post-9/11 state<sup>41</sup> that more vigorously advocates a racialized allocation of rights, with the Middle-Eastern/Arab identity being explicitly attacked. Due to the government's inability to separate those deemed 'suspicious' (i.e. those racialized subjects) from the 'neutral' citizen and the complicity of the American public; they were able to violate in broad strokes the rights of citizens. The extensive involvement of the NSA surveillance programs with U.S. drone strikes only furthers the thesis that technology has shaped the dynamics of state interaction with the citizenry and non-citizens alike.<sup>42</sup>

Adversely, the cyber-world has long been a large part of the "War on Terror", as websites preaching radicalization and step-by-step instructions on how to make bombs have been a large focus in 'acts of war'.<sup>43</sup> Furthermore, the carrying out of many anti-terrorist operations involves a cyber-reality – drone usage itself manifests as part of the shift to an online reality. The notion of 'information warfare' makes defining something like the state problematic and this in turn becomes a great issue for citizenship. In a world where death can be meted out in one territory from another, the boundaries and limits of state power are being tested. As such, an online reality can and might come to represent the way in which we perceive reality and ethically this raises many questions for the society. For example, how are we to figure death in physical terms when its administration is not?

*What these technologies have really done is introduce a new non-physical space that we exist in, and increasingly, it's becoming just as important as the offline or physical space –in fact events in this non-physical domain often affect the events in the physical world.*<sup>44</sup>

And it is within this virtual sphere of reality – specifically its effect on citizenship – that will play a key role in understanding how the state has attempted to legitimize a violation of citizen rights by reducing the material presence of war for the American public. Reducing the number of troops on the ground significantly alters people's perception of a war and its 'worthiness'. In addressing the development of new technology – specifically the use of drones – in relation to a change in the logic of citizenship, the effects of a growing non-physical reality can be more readily seen in the blurring of the citizen-enemy dichotomy. The idea of an enemy combatant is equally ambiguous, generally taken to be "an additional classification of detainees who, through their own conduct, are not entitled to the privileges and protection of the Geneva Conventions. These personnel, when detained, are classified as enemy combatants," although this definition has been frequently expanded upon.<sup>45</sup> How are we to distinguish the criminal act from the act of war? These questions are not easily addressed, but the distinction is even more difficult to ignore with a blurring of the two categories and this variable definition of enemy combatants. What will be the outcome of such indistinction? It is hard to say, but the link between changing technology and the obscuring of the citizen/enemy dichotomy is one of real

<sup>41</sup> A history of United States' security measures reveals precedents such as the case of Japanese-American internment beginning in 1942, in which president Franklin D. Roosevelt signed the Executive Order No. 9066 calling for the roundup of over 120,000 American of Japanese descent (mostly citizens) and placing them in camps –officially called "relocation centers". The questions of a violation of Fifth Amendment rights was brought forward in two cases but inevitably were turned down as the courts ruled this a matter of national-defence. (see Japanese Relocation Centres, *InfoPlease* 2007)

<sup>42</sup> Gaist. "Global Drone Warfare, Targeted Assassinations Supported by NSA Surveillance." (2013)

<sup>43</sup> Andersen. "Cyber and Drone Attacks May Change Warfare More Than the Machine Gun", 3.

<sup>44</sup> Ibid. 5.

<sup>45</sup> The U.S. definition of enemy combatants has many subdivisions including: (a) Low Level Enemy Combatant (LLEC). Detainees who are not a threat beyond the immediate battlefield or that do not have high operational or strategic intelligence or law enforcement value that requires the specialized type of exploitation capability available at a Joint Interrogation and Debriefing Centre. (b) High Value Detainee (HVD). A detainee who possesses extensive and/or high level information of value to operational commanders, strategic intelligence or law enforcement agencies and organizations. (c) Criminal Detainee. A person detained because he is reasonably suspected of having committed a crime against local nationals or their property or a crime not against US or coalition forces. Excludes crimes against humanity or atrocities. (Note: this sub-category may also be applied to CIs). (d) High Value Criminal (HVC). A detainee who meets the criteria of a HVD and is reasonably suspected of having committed crimes against humanity or committed atrocities, a breach of humanitarian law that is an inhumane act committed against any person. (e) Security Detainee. A civilian interned during a conflict or occupation for his or her own protection (See *Joint Doctrine for Detainee Operations*, accessible at [discourse.net/2005/04](http://discourse.net/2005/04))

importance, and provides a pretext for the state-sponsored killing of citizens. The blurring of the lines between civilian and enemy (or citizen and enemy) prompts many questions of accountability in an attack. Drones prove not only efficient in the transgression of rights but their key feature has been that of little to no risk. Accountability, as I have previously stated, becomes extremely complex in the case of drone warfare. Reports have indicated that, “Since Obama’s election, the CIA has overseen nearly 320 drone strikes in Pakistan alone, killing more than 3,000 people, as many as 900 of them civilians. Among the dead are at least 176 children.”<sup>46</sup> The question of accountability in many of these deaths is nothing more than a passing thought. Looking at statistics for the United States drone program in Pakistan serves only as an ominous reminder of what is to come in the future for this kind of military action.

This lack of accountability further indicates the depersonalization of death and allows for *en masse* civilian casualties to continue. In Jeffery St. Clair’s piece titled *The Game of Drones* he claims that “atrocities in the name of empire seem consciously geared to some deep political algorithm of power and death.”<sup>47</sup> What he is referring to here, as ‘a deep political algorithm of power and death’ is testament to Mbembe’s Necropolitics. It becomes apparent that an administration of death is integral to power politics; even if on the other end of this relation is the body of the citizen. Mbembe states, “To kill or to allow to live, constitutes the limits of sovereignty.”<sup>48</sup> If the limits of its sovereignty have moved beyond what can be defined as *the control of bodies*, then the U.S. is engaged in necropolitics as Mbembe defines it. State sovereignty in the Western reality, has moved beyond the struggle for autonomy and therefore must exercise its power in other ways, this has led to what Mbembe calls the “instrumentalization of human existence and the material destruction of human bodies and populations.”<sup>49</sup> Killing is conceived of as a requirement when defining sovereignty, and sovereignty is the strength to violate the domain of natural prohibitions, under the conditions of custom, which includes death amongst its ranks.<sup>50</sup> The conditions of custom, we can assume, are what law would dictate and subsequently what mediates the relation of sovereign power to the subject. But this definition of sovereignty does not indicate the violation of prohibited domains (such as death) indiscriminately, nor those violations *unbound by custom* (the killing of citizens). How do we figure these aspects of sovereignty into the equation? Foucault states, “The sovereign right to kill and the mechanisms of biopower are inscribed in the way all modern states function, indeed they can be seen as constitutive elements of state power in modernity.”<sup>51</sup> Mbembe constructs his argument on these foundations established by Foucault, as the act of killing plays a large role in affirming sovereign power. Although death might be constitutive of sovereignty in the *sovereign right to kill*, this turn to an assault on the citizen category in the form of a violation of basic rights (to life, liberty and the due process of law) is something different.

Mbembe references Elias Canetti’s discussion on the ‘*logic of survival*’ to describe not only the act of killing but also the satisfaction felt in the death of an Other, “Each enemy killed makes the survivor feel more secure.”<sup>52</sup> The bottom line becomes death as a guarantee of one’s own survival – a logic that has been appropriated by the state and reflected in how sovereignty is defined. This becomes clear when examining the choice of words presented in the White Paper; citizenship does not

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<sup>46</sup> St. Clair, “*The Game of Drones*”, 1

<sup>47</sup> St. Clair, “*The Game of Drones*”, 2

<sup>48</sup> Mbembe, “*Necropolitics*”, 11-12

<sup>49</sup> Ibid. 14

<sup>50</sup> Ibid. 16

<sup>51</sup> Ibid. 17

<sup>52</sup> Canetti, “*Crowds and Power*”, 227–80 in Mbembe, “*Necropolitics*”, 36

‘immunize’ individuals who are the targets of state force.<sup>53</sup> This line alone alludes to how citizenship is being understood by the state. In refusing to uphold the constitutional provisions that protect the citizenry from the arbitrary deprivation of life, the state has demonstrated its judgment – the state is to be (re)thought as a body and, in claiming self-defence, it attempts to dispel the image of a state assault on bodies and employ a language of a ‘body’ vs. various other bodies. With each explanation provided comes an attempt at clouding its meaning: “The condition that an operational leader presents an imminent threat of violent attack against the United States *does not require* the United States to have clear evidence that a *specific attack* on U.S. persons and interests will take place in the immediate future.”<sup>54</sup> [Emphasis added] This is followed by the admission that a ‘terrorist war’ is slow, patient and sporadic, making it difficult to pinpoint action or qualify possible attacks. The attempt at securing any foreseeable critiques that may have been put forward on the imminence of threat is visible in the claims that the definition itself is too narrow for application and the rules in this document, set as precedent, simply cannot be applied. The rules of engaging in physical war have been taken out of context and poorly substantiated. And although the purpose of the white paper is to provide the legal parameters for killing U.S. citizens abroad, it oddly includes the option of an attack on U.S. soil, undermining the existing structures of its own laws.

The question becomes whether or not this constitutes an understanding of sovereignty that threatens to simultaneously delegitimize the sovereign by making the citizen-body incomprehensible to state law, necessitating a shift to exceptional powers. If the behavior exemplified by the United States could be said to embody this rhetoric –that of the Other as an imminent threat – and when that Other becomes internal in the form of the state’s own citizens, it cannot determine who to target and who to protect. Death in this instance has more than just the negative quality of the absence of life; it becomes a tool for producing bodies – the American body. Each time an attack is carried out in the “War on Terror” it produces the American body as triumphant and even more present in the wake of the Other’s death. For this reason, Mbembe refers to it as ‘an economy of death’<sup>55</sup>. We have seen the industrialization of death before, where death was considered a procedure, one that was taken on impersonally and technically.<sup>56</sup> What Deleuze conceived of as an end of sovereignty, ‘societies of control’, with their emphasis on modulation, sifting through bodies and the constant changing of their form,<sup>57</sup> does not account for the swift and technical elimination of those bodies. An ‘efficient’ means of regulating power is through death, and this is much more reminiscent of the workings of empire than of what Foucault and Deleuze had spoken of. Putting energy into constant changes and reforms in order to secure state sovereignty is a long and tedious process. Instead, the ‘efficiency’ in the logic of enemy combatants aims to reduce workable solutions down to their most basic dichotomy, that between life and death.

This dysfunctional reality of citizens as bearer of rights has been pointed to numerous times. Peter Nyers has written on what he calls accidental citizens – what I consider to be the antecedent to this work – and the increasing banality of the citizen label for marginalized groups.

*As a way of (not) being political, the ‘accidental citizen’ is similarly considered to be incidental, non-essential, and a potentially catastrophic exception to the norm...the*

<sup>53</sup> The Department of Justice “Lawfulness of a Lethal Operation Directed Against a U.S. citizen Who is a Senior Operational Leader of Al’Qaida or an Associate Force”, 2

<sup>54</sup> Ibid. 7

<sup>55</sup> Mbembe, “Necropolitics”, 15

<sup>56</sup> Mbembe, “Necropolitics”, 18

<sup>57</sup> Deleuze, “Postscript on the Societies of Control”, 4

*opposition becomes not one of citizen vs. non-citizen, but between those citizens who are deemed essential and necessary and those who are dismissed as accidental and dispensable.”<sup>58</sup>*

If there remains the ability to make distinctions between an essential and an accidental, then the privilege of citizenship cannot claim consistency. And if this label of the accidental is applied selectively to those deemed undesirable, then who is to say that today’s essential citizen will not become tomorrow’s disposable one? True enough, we might begin to see the “War on Terror” as reshaping these categories, rendering undesirable the qualities of being Muslim, those nationals of Middle Eastern or North African states and those perceived in some way sympathetic to their circumstance. What Nyers is referring to as ‘accidental citizens’ specifically addresses the cases of those whose birthright citizenship is challenged due either to their extended absence from said country, or the lack of citizenship held by parents at the time of the child’s birth.<sup>59</sup> The term ‘accidental citizen’ is not a new formulation, and practical equality before the law has previously been violated in the case of American citizens. What differentiates the targeted killing of citizens as a new aspect of this phenomenon of the ‘incidental citizen’, however, is an erosion of rights that extends beyond ‘exceptional’ practice and enters the conversation as a potential norm. The state’s attempt to justify the denial of due process is illustrated in the maxim of “[Sovereignty as] subjugation of life to the power of death,”<sup>60</sup> meaning the act of killing is ultimately more pressing in terms of sovereign power than the guarantee of any right.

The case examined by Nyers in his work on Accidental Citizenship – that of Yaser Esam Hamdi – illustrates how the debates surrounding citizenship have entered the realm of precarity. In Hamdi’s case he was an American-born Saudi national who did not spend any significant time in the United States, and was later captured in northern Afghanistan. Originally detained for two years without charge, he was later brought to the U.S. as an enemy combatant in 2002.<sup>61</sup> Hamdi was denied the rights and protections accorded to those with birthright citizenship. His case concluded with a deal in which Hamdi was to renounce his American citizenship, accept restrictions on his mobility and in exchange was granted a conditional freedom. Hamdi’s case is simply one of many demonstrating the inconsistencies in the figure of the citizen, and indicates a course that is becoming more dangerous for those deemed desirable and undesirable alike. Hamdi’s citizenship was scrutinized for its lack of credibility due to his national origin and the supposedly inconsequential time he spent in the United States, but what this does is delegitimize all those deemed ‘accidental citizens’ due to their being “born to non-citizen parents on U.S. territory.”<sup>62</sup> Nyers points out that the danger here is in exposing the rights that come from birth in a sovereign territory as arbitrary, since they naturally are the product of luck and require nothing more than being born in the ‘right place’. What Nyers had cautioned is equally applicable to more citizens in the “War on Terror”. Those citizens deemed dispensable are now at risk of death without trial. The devaluation of citizenship is apparent in the very existence of the category ‘accidental citizens’. Consequently, an attack on the fundamental principles of citizenship is not seen as such. Society is seemingly idle as an increasing number of citizens are deemed nonessential, and an unsuspecting citizenry is numb to the violence being done onto a category that is its own. Writing a justification of this with reference to law – the exception of arbitrarily killing

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<sup>58</sup> Nyers, “*Abject Cosmopolitanism: the Politics of Protection and the Anti-Deportation Movement*”, 24

<sup>59</sup> *Ibid.* 24

<sup>60</sup> Mbembe, “*Necropolitics*”, 39

<sup>61</sup> Nyers, “*Abject Cosmopolitanism: the Politics of Protection and the Anti-Deportation Movement*”, 25

<sup>62</sup> *Ibid.* 26



citizens – is not only something for those ‘potential terrorists’ to fear, but all citizens, as this even marginally alters the relation of rights and privileges accorded to all citizens by the state.

The question that must be revisited in this context is, of what benefit is this practice to the state? For Nyers the answer lies within an understanding of the performance of sovereignty, it relies on a constant performance in order to (re)affirm its presence as something essential and indispensable to our political relations<sup>63</sup> Theoretically, sovereignty (read as the privileged relationship of citizen/nation/state) is truly imperative to the workings of modern political life. Though, in practice there is no way to measure its success other than through a constant recreation of itself. The constant (re)definition of boundaries is equally important to the project of statecraft. If taken to be true, then compartmentalization of the citizen body into essential and accidental is a manifestation of this (re)definition.<sup>64</sup> The violence inherent in the ‘founding of any sovereign order’ is no secret, but what of the violence implicated in the distinguishing of essential and accidental citizens? Does this not constitute a paradox in which the (re)founding of a sovereign political community – and along with it its political subjects (the citizenry) – is based on violence done onto the citizenry itself? I find it difficult to understand a (re)affirmation of sovereignty that is predicated on the indiscriminate killing of citizens and non-citizens alike. The ruling in Hamdi’s case was not the product of a sound understanding of the citizen in law; rather it was the application of the exception to a U.S. citizen and this could be replicated for all those caught between the labels of citizen and enemy combatant. Here the emerging norm of a politics of exception is set out nicely for us. Nyers defines acts of sovereignty under the Bush Administration as shifting and indeterminate.<sup>65</sup> It is important to note that in the years before Obama’s drone program, and during the height of the global “War on Terror”, exceptional practices were already becoming a *de facto* norm. But the state of exception, as described by Agamben, remains at the threshold of the law – meaning that in the case of Hamdi being labeled an enemy combatant, he was first coerced into renouncing his American citizenship. It was still considered a necessary measure to remove Hamdi from the realm of legality in order to place heavy restrictions on his rights without cause.<sup>66</sup> The discussion of accidental citizens brings us beyond the simple dichotomy of insider vs. outsider and citizen vs. non-citizen. Nyers touches on David Cole’s writings on the “War on Terror” (2002-03), which argue “We have selectively sacrificed non-citizens’ liberties while retaining basic protections for citizens,”<sup>67</sup> and aptly points to how this has shifted with cases like Hamdi’s being subjected to ‘plenary power’ despite holding American birthright citizenship. Nyers highlights the differences in labeling enemy combatants in the cases of Yaser Hamdi and that of another American, John Walker Lindh, both of whom were pursued by the U.S. government. One enjoyed full constitutional rights while the other was subject to a military tribunal.<sup>68</sup> If we consider Bonnie Honig’s claim that the truth behind the foreign is a desire to persecute, disavow, detain or deport<sup>69</sup> and as such anyone can be made foreign, then it is possible to consider the U.S.’s actions as a misguided attempt to make some in the citizen category foreign by exposing the citizen herself to this foreignness. In exposing the fallacy of according due process rights to citizens, we have identified the category of ‘disposable’ as equal to that of ‘citizen’, and in doing so, it destabilizes the legitimacy of state power. The state’s power cannot be removed from a power over its subjects (the citizenry), but equally its power is made up of these subjects in their title as citizens. What Nyers has done through

<sup>63</sup> Nyers, “*Abject Cosmopolitanism: the Politics of Protection and the Anti-Deportation Movement*”, 26

<sup>64</sup> Ibid. 27

<sup>65</sup> Nyers, “*Abject Cosmopolitanism: the Politics of Protection and the Anti-Deportation Movement*”, 28

<sup>66</sup> Ibid. 33

<sup>67</sup> Ibid. 30

<sup>68</sup> Ibid. 23

<sup>69</sup> Ibid. 32



this work is raise key questions for rethinking citizenship, “prioritizing the politics of the accident raises a number of difficult questions for how we think about citizenship... it suggests that the traditional dichotomy of citizen/ non-citizen has to be rethought to account for the exceptions rendered by acts of sovereignty.”<sup>70</sup> The shift away from the traditional dichotomy of citizen vs. non-citizen allows for increasingly exceptional politics to be applied to citizens. The precarity of the citizen revealed in Nyers’ (2006) analysis, is clearly substantiated in a reading of the Obama administration’s policy on drones in the “War on Terror”. Mbembe’s conceptualization of wars in the globalization era<sup>71</sup> has proven true. A recent speech given by President Obama at the National Defence University in Washington, DC reiterates, “this is a just-war –a war waged proportionally, in a last resort, and in self-defence.”<sup>72</sup> Obama’s claim that it is both justified and legal to use military drone strikes, and the framing of civilian deaths as a necessary risk, speak to the development of contemporary war into what has elsewhere in this work been called an economy of death. The Obama Administration’s rhetoric indicates a revision of what is considered to be ‘right’ and ‘good’, to which Hannah Arendt wrote sixty-two years ago, “a conception of law which identifies what is right with the notion of what is good for – for the individual, or the family, or the people, or the largest number – becomes inevitable once the absolute and transcendent measurements of religion or the law of nature have lost their authority.”<sup>73</sup> Her words are even more pressing now that the rule of law’s discontinuity is being explicitly seen. By placing ‘good’ and ‘just’ in the qualities of a specified group, it risks eliminating an element of that group’s connection to humanity. The definition of ‘good’ has been put in constant motion, differing in its context, application and source. It is easy enough to see where the problem of this subjective ‘good’ would arise. A shift in the categorical ‘good’ is needed to launch successful military strategies, and the Obama administration’s manipulation of the language of ‘just’ and ‘necessary’ is an example of this kind of conduct. This is the pretense for an arbitrary attack on citizens, though at times there seems to be admissions of guilt from the administration. Obama’s acquiescence to the nature of drone strikes as an added dimension to war that is not easily reconcilable with morality proves to be nothing more than an example of well-informed cynicism, in which the atrocities and illegality of these acts are swept aside in a moment of ‘acceptance’:

*The very precision of drone strikes, and the necessary secrecy involved in such actions can end up shielding our government from the public scrutiny that a troop deployment invites. It can also lead a President and his team to view drone strikes as a cure-all for terrorism.*<sup>74</sup>

This admission only further affirms a discourse of essential and disposable bodies in so much that not once is the value of human life given any thought. Death is industrialized, “execution [is] transformed into a purely technical, impersonal, silent and rapid procedure.”<sup>75</sup> There is evidence of the mechanization of death throughout much of the official commentary on the “War on Terror” and its casualties. Drones have simply added to the detachment apparent in contemporary war. To use Jeffery St. Clair’s phrasing, in the ‘game of drones’, the *sovereign right to kill* (in this case arbitrarily) is gaining appeal and by Obama’s own admission it shields governments from scrutiny<sup>76</sup>. The gains achieved by the United States over the course of the 20<sup>th</sup> and 21<sup>st</sup> centuries can only be maintained, it seems, by a regime of death.

<sup>70</sup> Nyers, “*Abject Cosmopolitanism: the Politics of Protection and the Anti-Deportation Movement*”, 38

<sup>71</sup> Mbembe, “*Necropolitics*”, 31

<sup>72</sup> BBC News. “*Barack Obama Defends ‘Just War’ Using Drones.*” (2013)

<sup>73</sup> Arendt “*The Decline of the Nation-State and the End of the Rights of Man*”, 379

<sup>74</sup> Woods, Chris. “*Obama Frames Covert Drone War as necessary Evil.*” (2013)

<sup>75</sup> Mbembe, “*Necropolitics*”, 18

<sup>76</sup> BBC News. “*Barack Obama Defends ‘Just War’ Using Drones.*” (2013)

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