

“Freedom Will Be Defended”: The Human Rights Regime of Truth and Standards of Sovereignty in US Security Discourse

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"Freedom Will Be Defended"

Introduction

"Chatter, chatter: liberty, equality, fraternity, love, honour, patriotism and what have you [...] high-minded people, liberal or just soft-hearted, protest that they were shocked by such inconsistency; but they were either mistaken or dishonest for with us there is nothing more consistent than a racist humanism since the European has only been able to become a man through creating slaves and monsters"

- Sartre, Preface to *Wretched of the Earth*

As the world struggled to make sense of what had happened on the morning of September 11th 2001, the remarks made by President George W. Bush from Barksdale Air Force Base in Louisiana instituted fault-lines along the fissures of liberty: "Freedom itself was attacked this morning by a faceless coward. And freedom will be defended".¹ Three months later, just days before coalition forces in Afghanistan would oust the Taliban from power, human rights were placed centre stage in the fight against Terror. The proclamation naming the 10th of December 2001 as 'Human Rights Day' repeatedly referred to a coalition of civilised people, opening with an evocation that "the terrible tragedies of September 11 served as egregious reminder that the enemies of freedom do not respect or value individual human rights - their brutal attacks were an attack on these very rights".² The US was positioned not only as human rights manifest, but freedom itself. In this international imaginary, the defence of the territorial integrity of the US and citizens was the defence of freedom. Such an assertion, beyond a rhetorical flourish, relied upon a particular notion of what freedom means and who is an enemy. On the international stage, human rights not only define the US as 'good' but also those who are 'bad', whether as abusers or victims: how did the human rights records of other states become a problem of US Security? Taking this eponymous Bush quotation as a springboard, this dissertation explores human rights history through the lens of US security.

Who is included in the story of the US as the 'land of the free' and where do human rights figure in this freedom? Jimmy Carter is perhaps the president most widely and readily associated with human rights, and especially with a human rights foreign policy. In his farewell address in 1981 he not only placed the US at the forefront of the struggle for universal rights, but rhetorically placed the nation as the embodiment of individual freedom. Ringing the tune of American exceptionalism, Carter declared "America did not invent human rights [...] human rights invented America [...] the love of liberty is the common blood that flows in our American veins".³ With very little genealogical digging, it becomes clear that many are excluded from this bloodline. It is the apparent ease with which human rights can be picked up by US statesmen, by foreign policy makers and

¹ George W. Bush. "Freedom Will Be Defended" (11 September 2001) in *La Times* collection "Terrorism Hits the U.S."

² George W. Bush, 'Proclamation 7512', 3 CFR 7513, Human Rights Day, Bill of Rights Day, and Human Rights Week (9 December 2001)

³ James Carter, 'Farewell Address', Oval Office, White House (14th January 1981)

international institutions, that led me to study them as a facet of US international security. A notion that is oft-uttered by rarely explained, a taken-for-granted value, once I noticed how often it cropped it up I began to see them everywhere. Such common-sense notions shape the figure of the Human.

The ability to claim liberty is a powerful rhetorical move, an assumed 'good' and any suggestion to the contrary is a supposed affront. But, what do we mean by freedom? How can freedom be protected and promoted? My specific contribution to the interrogation of 'liberty' - a most hallowed concept - is situated within a niche of Critical Security which unsettles the essentialising of security. That is, analyses which do not regard security as a taken-for-granted and essentially positive state of being, but rather as a set of relations. From an interdisciplinary perspective I seek to redress the largely ahistorical nature of previous work in the field, straddling the fields of International Relations, political philosophy, and history.

In think-pieces, keynotes, and in journal articles reacting to the 2016 Brexit referendum and the election of Trump just a few months later, these events were framed as a threat to - or even as the swan song of - the liberal international order constructed after the Second World War. The same order that Bush rallied to defend. Such analysis often draw upon norms of universal human rights and democratic uncritically: the notion of human rights is never problematised, rather understood to mean the negative and political rights of the individual. A quick note on the prefix to rights: 'negative' can be understood as freedom *from*. This focus is upon restraining (primarily) state power from inferring upon the rights of the individual, privileges rights such as freedom from slavery, torture, arbitrary detention, religious persecution, as well as including right to free speech and private property. Yet, civil and political are but one branch of rights, distinct from and connected to social, economic, cultural, and collective rights. From the mythologised Congressional and Carter legacies of the 1970s, we can ponder how human rights moved from the Amnesty project of freeing prisoners of conscience to justifying military force. However, this is only part of the story, these articulations rest upon a contained reading of rights. To unpick the predominance of a single reading, I propose the existence of a 'human rights regime of truth', wherein a (specific) notion of human rights is tied to (inter)national security, thereby justifying (humanitarian) intervention. This framing exposes a dominant discourse of human rights which reproduces the (neo)liberal democratic order. A 'regime of truth' limits what can and cannot be understood as human rights - obscuring alternatives such as socio-economic and group rights - as well as structuring who is able to speak with expertise, and the available 'appropriate' action proposed. In exploring human rights as a standard of sovereign responsibility in US security discourse, I argue that the articulation of state failure and roguery reinforce the state-centric conception of the international, and therefore the related racialised and colonial hierarchies of sovereign autonomy that are foundational to international law and relations. While there may be slight divergence in focus, the meaning of human rights is generally taken as a given, based upon a fixed notion of freedom, and specific (foreign) policy is built around it. This relative consensus can be highlighted through

reference to two contemporary discourses in the academe: the liberal international order and the radical 'novelty' of the War on Terror.

Order and Terror

The lamentation of a liberal order on the wane, with the rise of populism in the West and of competing superpowers such as China and Russia, Trump has been posited as a disruption to American hegemony as leader of the free world. A progenitor of the term, G. John Ikenberry argued that Trump was the first President since the 1930s to be "actively hostile to liberal internationalism", an ideology that took root deeply post-WWII, imagined as a "security community - a global space where liberal democracies joined together to build a cooperative order that enshrined basic human rights and social protections"⁴. Under the subtle title 'Liberal World Order, R.I.P', Richard Haass - the president of the Council on Foreign Relations - situates the order as response to the belligerence of the first half of the 20th century:

"To that end, the democratic countries set out to create an international system that was liberal in the sense that it was to be based on the rule of law and respect for countries' sovereignty and territorial integrity. Human rights were to be protected. All this was to be applied to the entire planet; at the same time, participation was open to all and voluntary. Institutions were built to promote peace (the United Nations), economic development (the World Bank) and trade and investment (the International Monetary Fund and what years later became the World Trade Organization)".⁵

Drawing upon a host of postcolonial, poststructural, and critical race work, this dissertation underscores each of these claims as ahistorical and normative in a formation of power. In an essay reflecting upon the 'future' of the liberal international order with a Trump administration, Doug Stokes noted that "many criticisms can be levelled at US leadership of the LIO [Liberal International Order], not least in respect of its claim to moral superiority, albeit based on laudable norms such as human rights and democracy".⁶ I am not posing a challenge to the claim of Trump's disruption but rather to the lack of critical attention paid in the evocation of this 'order', and the role of 'human rights' therein. Human rights are evoked as a common sense and taken-for-granted truth, as a fundamentally liberal value, that is universal and tied to the political and economic organisation of (neo)liberal democratic governance. The assumed role of this inclusive, Western-led community is presented as essentially good - even if as Stokes claimed, sometimes executed poorly - a

⁴ John G. Ikenberry 'The End of Liberal International Order?' in *International Affairs* Vol. 94 No. 2 (2008) p.7; Further notable examples of US-centric LIO literature include Tony Smith, *America's Mission; The United States and the Worldwide Struggle for Democracy* (Princeton: Princeton University Press, 1994); Michael Mandelbaum, *The Ideas that Conquered the World: Peace, Democracy, and Free Markets in the Twenty-First Century* (New York: Public Affairs, 2004)

⁵ Richard N. Haass, 'Liberal World Order, R.I.P.?' in *Project Syndicate* (21st March 2018)

⁶ Doug Stokes, 'Trump, American Hegemony and the Future of the Liberal International Order' in *International Affairs* Vol. 94 No. 1 (2018) pp.133-150 p.133

service that is being lost. Development studies scholar Olivia Umerurerwa Rutazibwa had adeptly posed the question, what exactly are we being invited to mourn in these tracts? This 'loss' of liberal humanitarianism evokes a history of humane benevolence which sanitises critical reflection on development and structures the questions researchers are able to pose about expertise and 'good practice': Rutazibwa invites the question, where does the story start?⁷

This liberal international assumption is also linked to the assertion that the spread of democratic principles and free market ideals foster not only human rights but international peace. As is a central claim of this dissertation, any reference to 'human rights' embodies a complex discursive formation that is both historically and geographically contingent. Similarly, the presentation of 'democracy' as a singular, unified, and universal regime effaces the multiple, conflicting histories of this concept, by reference to a very specific form of governance – liberal democracy. The pervasive doctrine of the Democratic Peace, which postulates the lack of conflict between democracies as evidence of their fundamentally pacific nature, presents a dichotomous worldview where industrialised, democratic, free, and developed nations are pitted against the underdeveloped, undemocratic, and unfree.⁸ Belligerence and insecurity are seen to emanate from out there. This ahistorical perspective naturalises the emergence of wealth and 'freedom' in particular localities, dismissing the past and present processes of exploitation and accumulation upon which this was founded and sustained. The specific conception of human rights as fundamentally good, pacific, and liberal, is linked by Ikenberry to the rise of the 'Responsibility to Protect' norm in international relations which he poses as "an erosion of the central Westphalian norm of sovereignty", where "the international community is seen as having a legitimate interest in what goes on within countries; its growing interest in the domestic governance of states driven by considerations of both human rights and security".⁹ Through reference to what I explore as a mythologised notion of 'Westphalian sovereignty' – which rests upon a falsehood of 'equal sovereignty' – I unsettle the depoliticising and pathologising of (postcolonial) states who are rendered as a security threat not only in the protection of the suffering individual citizen but to international stability through human rights as standards of sovereignty.

Failed states, often also referred to as fragile, are characterised through a lack, a lack of good governance structures, their internal behaviour causing external adverse effects through 'bad' circulations of people, conflict, and terrorism. Rogue states on the other hand are problematised according to their behaviour in the international, referred to by Reagan as 'outlaw'. However, human rights standards are similarly used to analyse the rogues, as

⁷ Olivia Umerurerwa Rutazibwa, 'What's There to Mourn?: Decolonial Reflections on the End of Liberal Humanitarianism' in *Journal of Humanitarian Affairs* Vol. 1 No. 1 (2019) pp.65-67

⁸ For an explanation of this theory see: Michael W. Doyle, 'Democratic Peace' in *Security Studies: A Reader* (ed.) Hughes, Meng (Oxon: Routledge, 2011) pp.165-170

⁹ John G. Ikenberry, 'The Liberal International Order and its Discontents' in *Millennium: Journal of International Studies* Vol. 38 (2010) p.517

human rights abuses against their own citizenry is rendered as a sign of 'irrationality', as a signal that they cannot be trusted to respect the mutuality necessary in a stable international order. Thus, the delegitimisation of (postcolonial) states by reference to human rights as standards of sovereignty in US foreign policy are not only conceived as the protection of the suffering individual, but as a threat to (inter)national security.

A second contemporaneous problem in the study of human rights as foreign policy is the relative lack of attention paid to human rights discourse in the US waging of the War on Terror. The invasions of Afghanistan and Iraq are often posed as a fundamental break from the humanitarian action across the 1990s underpinned by the liberal internationalism fronted by Blair and Clinton. The protection and promotion of human rights norms as objectives of the War on Terror is a rather under-researched question. Where human rights are considered, the focus is generally placed upon: the myriad abuses (including but not limited to the practices of extraordinary renditions, legislating for torture, indefinite detention in 'black sites', and targeted assassinations); the strategic evocation of human rights as a useful ideological tool by the Bush and Blair governments which ultimately undermine rights; or debates on the legality of these wars ('humanitarian' or otherwise).¹⁰ Such a focus solely upon the legality or ethnicity fails to address the functioning discourses from which Bush could declare a fight for freedom and human rights. Critical voices in security and International studies generally focus upon US human rights and humanitarian discourses either as hypocrisy or as a convenient cover for less palatable, or more nefarious, interests in intervention. Yet, this fails to grapple with the discursive power of freedom as rights. Human rights concerns were not simply picked up as a convenient cover story after the failure to find WMD and the discrediting of the 45-minute claim. Further, the linking of terror - as a threat among many other intertwined insecurities - to 'barbarous' and 'underdeveloped' states reaches further back than 9/11.

The lack of attention to the histories of human rights as security in the War on Terror can be linked to the prevalent notion that the Bush Doctrine was radically novel, where the exceptional measures for exceptional times gradually became the norm¹¹. Critics across

¹⁰ Focus upon abuses: M.W. Herold (2002), 'A Dossier on Civilian Victims of United States' Aerial Bombing of Afghanistan: A Comprehensive Accounting' (2002) available at <<https://ratical.org/ratville/CAH/civiDeaths.html>>; Guy B. Adams, Danny L. Balfour, *Unmasking Administration Evil* 3rd Ed. (London: Routledge, 2013); Rhetoric: Stuckey, Mary E., Ritter, Joshua R. 'George Bush, <Human Rights>, and American Democracy' in *Presidential Studies Quarterly* Vol. 37 No. 4 (December 2007) pp.646-666; Michael T. Klare, 'Oil, Iraq, and American Foreign Policy: The Continuing Saliency of the Carter Doctrine' in *International Journal* Vol. 62 No. 1 (Winter 2006-2007) pp.31-42. Legality: Gerry Simpson, 'The War in Iraq and International Law' in *Melbourne Journal of International Law* Vol. 6 No. 1 (May 2005); Christopher C. Joyner, *International Law in the 21st Century: Rules for Global Governance* (Oxford: Rowman & Littlefield, 2005); Thomas Cushman, (ed.) *A Matter of Principle: Humanitarian Arguments for War in Iraq* (Berkeley: University of California Press, 2005)

¹¹ R. Van Munster, 'The War on Terrorism: When the Exception Becomes the Rule' in *International Journal for the Semiotics of Law* Vol. 17 (2004) pp.141-153; Alain Badiou, *Polemics* (trans.) Corcoran (London: Verso, 2006); Mark Osiel, *The End of Reciprocity: Terror, Torture, and the Law of War* (Cambridge: Cambridge University Press, 2009); Colleen Bell, 'Hybrid Warfare and Its Metaphors' in *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* Vol.3 No.2 (Summer 2012); Jason Ralph, *America's War on Terror: The State of the 9/11 Exception From Bush to Obama* (Oxford: Oxford University Press, 2013);

political spectrums have (re)produced this narrative, in posing the blurring of war and peace as a fundamentally new phenomenon. The 'counterinsurgency' turn in Iraq has been regarded as inserting the 'humanitarian' into war: this claim rests upon an ahistorical and Eurocentric premise of the distinction between war and peace, one which elides the discursive formation of 'humane' violence in the pursuit of projecting/protecting freedom and rights. From these contemporary formations of knowledge on US foreign relations, and the construction of the International as a space of enquiry, I build my analysis of the 'human rights regime of truth'.

Theory and Methods

I will elaborate upon my theoretical and methodological framework in the following chapter in depth. As a brief introduction to terms, I employ a critical discourse analysis in proposing the Foucauldian framework of the 'regime of truth' as an analytical devise to explore human rights as a standard of sovereignty. 'Human rights' are a pervasive notion, one that has adorned placards and policy campaigns across political spectrum. While human rights at first glance may appear a settled concept, the question on the subject of rights frequently causes conflict; for instance, on debates on abortion, the question hinges upon whose rights are being violated; for who is the sanctity of life paramount; and what are the rights that sustain a 'good' life?

The question of who is authorised to speak, to espouse 'truth' is central to discourse analysis. One cannot choose their engagement with a discourse free of the constraints of prior power and knowledge therein, nor speak within a discourse while remaining impervious to its effects. Foucault refuses the mythologised idea of the purity of 'truth', reached at through an ascetic transcendence, as opposed to falsehood; he finds what is true within the terrestrial, mundane struggles of constraint and control, stating that "each society its regime of truth, its 'general politics' of truth".¹² The discourses that are engaged in the interpretation between truth and false, the means accorded scientific credence as a pathway to truth, as well as the figures endowed the status of truth-tellers, constitute this regime. As outlined in the following theory chapter, there are parameters of how human rights are discussed and implemented, variable across contexts, but with a perceived consensus which rules out the existence of alternative histories and conceptualisations.

Discussing the subject of the human and the promotion of life in the legal framework of 'rights', from a Foucauldian theoretical perspective, inevitably led me to the question of biopolitics. As a technology of power centred upon the management and regulation of life and the level of population, bio power promotes a particular way of life as 'secure' and

Rebecca Sanders, 'Human Rights Abuses at the Limits of the Law: Legal Instabilities and Vulnerabilities in the "Global War on Terror" in *Review of International Studies* Vol. 44 No. 1 (January 2018) pp.2-23; Johannes Thimm, 'From Exception to Normalcy: The United States and the War on Terror', Stiftung Wissenschaft and Research Paper 7 Berlin (October 2018)

¹² Foucault, *Power/Knowledge* (New York: Vintage Books, 1980) p.131

'free' while placing the exclusionary practices of 'liberty' at the margins of society, targeting those deemed 'abnormal' and therefore dangerous. Human rights are inherently biopolitical, as a means to protect humanity from the dangers that arise from within. In unearthing the biopolitical regime of truth, I have employed the means of a critical genealogy, a diagnostic endeavour which considers the conditions of possibility for contemporaneous power relations. Bondi et.al. have outlined the potentials in a genealogical method in critical security studies, which "should displace security as a privileged object by performing historical empirical work on more heterogeneous dispositions that relate to security but are not necessarily built around it as a foundational problematisation".¹³ This is precisely how I pitch a security lens in the study of human rights, in political philosophy and more specifically as US foreign policy.

Finally, I refer to the burgeoning field of security research under the umbrella of International Political Sociology, which emerged as a challenge to the multiple dichotomies which structure the International as a 'problem' and the disciplined knowledge which reinforce these distinctions. Rejecting the formation of a new 'meta-narrative', this perspective advocates reflection on the knowledges that underpin our research assumptions and aims by way of de-disciplining work, in the search for 'transversal lines' in research across generally distinct disciplines, theory, and empirics. As a call to historicise the boundaries enforced between thinking on the International and the domestic, a genealogical approach to a 'transnational' issues I argue, is an apt contribution.

State of Research/Literature Review and Inspirations

In a genealogical investigation informed by a methodological de-disciplining, the interaction between diverse knowledges and fields of study is integral in the effort to unsettle taken-for-granted truths. Human rights as a subject of study encompasses a vast array of disciplines from international law and International Relations to history, political science, criminology, sociology, and anthropology that approach the notion of 'human rights' from an array of perspectives. I primarily draw upon work which combines International Relations, (international) law, political philosophy and history.

Histories of human rights have recently enjoyed a boom of academic engagement, emerging from a relative lack of interests where rights were placed in a trajectory toward legal normalisation, bestowed from outside rather than conceived as a product of conscious effort: first were those ordained by the divine right of God, then the natural right of peaceful cohabitation that is discovered within humanity itself. The historiography of human rights has largely focused upon the unearthing of an originary moment, debating across questions of whether distinct but related notions such as Natural Rights can be considered as the birth of a constellation of values, or in situating the cosmopolitan imaginary of human rights in a particular event as in abolition, revolution, or the post-

¹³ Philippe Bondi, Andrew Neal, Sven Opitz, and Chris Zebrowski, 'Genealogy' in *Critical Security Methods: New Frameworks for Analysis* (ed.) Aradau, Huysmans, Neal, Voelkner (London: Routledge, 2015) p.178

Second World War contrition.¹⁴ While immensely helpful, such studies often prioritise analysing the presence of 'rights claims' which can be said to reach out to a notion of 'humanity' or in discovering the impetus of a cosmopolitan imaginary. Further, in studies whose focus tends toward the halting of crimes against humanity such as slavery or genocide, there is a tendency to reproduce the contemporary focus solely upon negative civil and political rights.

In the periodisation of human rights, the 1970s has been pinpointed as a 'turning-point' in the development of human rights as a decade of profound international and US domestic upheaval within the context of globalisation: these analyses have contributed to an expanding tableau, in which the prominence of universal, international human rights norms are linked to detente, Vietnam, the growth of global capital, mechanisms of globalisation, an emerging Holocaust awareness, development policy, a greater flow of information through mass media, as well as the growing importance of NGOs such as Amnesty International. Numerous possible catalysts and actors have been investigated in the prominence that human rights gained on the world scene across the 1970s.¹⁵ One of the most famous and provocative accounts is Samuel Moyn's assertion that human rights are The Last Utopia, where Moyn argues that the history of human rights has been laboriously moulded into this linear narrative of progress, creating a false myth. He rather places the emergence of human rights as we know it as emerging in the 1970s, as the last (or most recent) call to a universal utopianism, claiming that the perceived history of human rights is one of contingency and construction. He bases his assessment on the emergence of human rights in their apparent rootlessness, as an appeal to humanity-at-large as opposed to bordered nations. These previous articulations of rights, that were "asserted in early modern political revolutions and championed thereafter were central to the construction of state and nation,

¹⁴ Micheline Ishay presented a comprehensive study of 'human rights' struggles across poses the existence of 'human rights' struggles across issues from workers to women's rights within a larger history, Micheline Ishay, *The History of Human Rights: From Ancient Times to the Globalization Era* (Berkeley: University of California Press, 2008). Natural Law: David Boucher, *The Limits of Ethics in International Relations: Natural Law, Natural Rights, and Human Rights in Transition* (Oxford: Oxford University Press, 2011). Abolition: Muhammad, Esq., Patricia M. 'The Trans-Atlantic Slave Trade: A Forgotten Crime Against Humanity as Defined by International Law' in *American University International Law Review* Vol. 19 No. 4 (2003) pp. 883-947; Jenny S. Martinez, *The Slave Trade and the Origins of International Human Rights Law* (New York: Oxford University Press, 2012); Robert Blackburn, *The American Crucible: Slavery, Emancipation and Human Rights* (London: Verso, 2011). Natural law: Lynn Hunt argues that human rights emerged as the rejection of torture in England and France, and has also published a documentary history of the French Revolution and analysed the debates that she argues formed the modern notion of human rights: Lynn Hunt, *Inventing Human Rights: A History* (New York: W.W. Norton and Company Press, 2007); Lynn Hunt, *The French Revolution and Human Rights: A Brief Documentary History* (Boston: Bedford Books, 1996). Post Second World War studies such as Kirsten Sellars, *The Rise and Rise of Human Rights* (Gloucestershire: Sutton Publishing, 2002), Mary Ann Glendon, *Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2002)

¹⁵ Barbara Keys places the Vietnam War as a central driving force in the search for a redemptive morality: Barbara J. Keys, *Reclaiming American Virtue: The Human Rights Revolution of the 1970s* (Cambridge: Harvard University Press, 2014); See also, Akira Iriye, Petra Goedde, William I. Hitchcock (ed.) *The 'Long 1970s': Human Rights, East-West Detente and Transnational Relations* (London: Routledge, 2016); Jan Eckel, Samuel Moyn (ed.) *The Breakthrough: Human Rights in the 1970s* (Philadelphia: University of Pennsylvania Press, 2014); Duco Hellema, *The Global 1970s: Radicalism, Reform, and Crisis* (Oxon: Routledge, 2019)

and led nowhere beyond until very recently".¹⁶ Thus, he discounts the (post)colonial struggle for self-determination as merely a terrain of sovereign rights. While self-determination was used as a territorial defence in the suppression of minority rights, this articulation doesn't account for the differentials in sovereignty in which human rights can be deployed as a measurement of sovereign autonomy. While this genealogy is influential and ground-breaking, this distinction reproduces the dominant narrative of human rights, which silences the discourses of postcolonial movements as well as the relations between moralistic idealism in human rights and war.¹⁷

In a 2017 publication that was intended to respond to the lack of attention given to socio-economic rights in *The Last Utopia*, Moyn argues that in prioritisation of civil and political rights in the face of widening inequality, contemporary human rights are Not Enough. While addressing development, particularly in relation to the rise of neoliberalism, the huge influence of modernisation theorists in US developmental and foreign policy is absent.¹⁸ Certainly, as Moyn argues "neoliberalism, not human rights, is to blame for neoliberalism", neoliberalism fundamentally shifted the possibilities inherent with the alternative articulations of rights discourse. Both development and human rights have been implemented as standards against which the 'underdeveloped' are held in articulations of international security.

Ivan Manokha's study of the political economy of human rights enforcement has also been very influential in my research in considering post-Cold War humanitarian intervention alongside the development of a global capitalist system, as studies of human rights and political economy are relatively rare.¹⁹ In reference to the development literature, there have been various studies on the influence of the modernisation theorists across the 1950s and 60s, particularly in the Kennedy administration.²⁰ When this literature refers to human rights, it is as conceptualised in the 'modernist' imagination – in the fostering of the 'modern state' of capitalism and liberal democracy which prominent theorist Rostow referred to as "high mass consumption", which I consider alongside critical readings of the 'development-security nexus'. The interrelationship of underdevelopment and insecurity

¹⁶ Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge: The Belknap Press of Harvard University Press, 2010) p.12

¹⁷ Roland Burke, *Decolonization and the Evolution of International Human Rights* (Philadelphia: University of Pennsylvania Press, 2010); Steven L.B. Jenson, *The Making of International Human Rights: The 1960s, Decolonization, and the Reconstruction of Global Values* (Cambridge: Cambridge University Press, 2017); Costas Douzinas, *Human Rights and Empire: The Political Philosophy of Cosmopolitanism* (Oxon: Routledge, 2007)

¹⁸ Samuel Moyn, *Not Enough: Human Rights in an Unequal World* (Cambridge: Harvard University Press, 2018); Works on the influence of modernisation theory include: Nils Gilman, *Mandarins of the Future: Modernization Theory in Cold War America* (Baltimore: John Hopkins University Press, 2003); Latham, Michael E. (1998). 'Ideology, Social Science, and Destiny: Modernization and the Kennedy-Era Alliance for Progress' in *Diplomatic History* Vol. 22 No.2 (1998) pp.199–229

¹⁹ Ivan Manokha, *The Political Economy of Human Rights Enforcement: Moral and Intellectual Leadership in the Context of Global Hegemony* (London: Palgrave MacMillan, 2008)

²⁰ David Ekbladh, *The Great American Mission: Modernization and the Construction of an American World Order* (New Jersey: Princeton University Press, 2010)

has produced a panoply of research and policy in the determining of a causal relationship and the practices of 'securing underdevelopment' across national governmental foreign policy and global finance institutions. While this has been conceptualised by its advocates as a fairly new phenomenon, research from critical race studies and critical security studies has interrogated the logics of racialised capability that are inherently reproduced in a 'scientific' discourse of empiricism.²¹ I draw upon this research in investigating the interrelated but distinct association of development and (individual negative) human rights, where socio-economic rights are subsumed under development and in specifically analysing US security policy and the problematisation of postcolonial spaces as failures and rogues. The work of Mark Duffield in particular has been ground-breaking in the conceptualisation of a 'liberal way of development' as a mode of governance which deploys biopolitical strategies in the management of the globally peripheral populations.

While the dominant theorisation of 'sovereignty' will be considered in detail in chapter three, I want to note here the relevance of (Third World Approaches to) International Law in considering the rise of the 'failed' and 'rogue' state as labels in US foreign policy, and as problems of the international to be studied. Academic studies on either 'failed' or 'rogue' states are almost exclusively concerned with determining the causal factors or failure, with proposing fixes of state-building, or, when taking a critical stance, with posing the US as the ultimate 'rogue'.

Beyond determining the signifiers of abnormality, I argue that we must consider the constellation of the 'successful' state. The history and development of international law as mired in the relations of imperialism has been exposed in Antony Anghie's influential text, *Imperialism, Sovereignty and the Making of International Law*, where he argues that the crowning notion of 'sovereignty' is fundamentally grounded in the colonial encounter in an analysis which culminates with a critique of the War on Terror as an imperialist self-defence.²² I draw upon these analyses of sovereignty in the analysis of the tensions between a deterritorialised notion of 'human rights' and the reterritorialisation of liberal violence in rendering the sovereignty of certain spaces as *contingent* in their inability or unwillingness to secure life. The inclusion of rights – as freedom, peace, and security – is paired with the separation of those illiberal *Others* who can either *become* liberal or be *excluded* through the processes of pacification.

Finally, unsettling how we conceive of the international, and exposing the inherent

²¹ Mark Duffield, *Global Governance and the New Wars: The Merging of Development and Security* (London: Zed Books, 2014); Mark Duffield, *Development, Security and Unending War: Governing the World of Peoples* (Cambridge: Policy Press, 2007); David Chandler, 'The Security–development Nexus and the Rise of 'Anti-Foreign Policy.' *Journal of International Relations and Development* Vol. 10 No. 4 (December 2007) pp.367–368; Robert Shilliam, 'What the Haitian Revolution Might Tell us about Development, Security, and the Politics of Race' in *Comparative Studies of Society and History* Vol. 50 No. 3 (July 2008) pp.118–808

²² Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law* (Cambridge: Cambridge University Press, 2004); See also, Mutua, 'Savages, Victims, and Saviours: The Metaphor of Human Rights' in *Harvard International Law Journal* Vol. 42 No. 1 (2001); B.S. Chimni, 'Third World Approaches to International Law: A Manifesto' in *International Community Law Review* Vol. 8 No. 1 (2006); Anne Orford, 'The Past as Law or History? The Relevance of Imperialism for Modern International Law' in *ILJ Working Paper* 2012/2

hierarchies therein, I draw upon poststructural works in International Relations and particularly on critical approaches to security. The post-structural turn in theoretical works of International Relations within the post-Cold War context challenge the 'natural' assumptions founding the dominant realist interpretations of the immutable divide between the internal political community of the sovereign state and the anarchic sphere of the international: the distinguishing division between insider/outside then reinforcing peace/war, order/disorder, and police/military²³. The work of Mark Neocleous is of particular note, as his Critique of Security posits security as fundamentally tied to the survival of the liberal-capitalist order in an analysis that interrogates the "security fetish" across the political, legal, economic, and intellectual spheres. A de-disciplining approach is suggested as necessary to escape the confines of knowledge production in the service of the state – most paradigmatically displayed in 'security studies' ; this confines of disciplining can also be read in the predominant academic treatment of 'state failure' as a problem to be 'solved'.²⁴

My study engages with Foucauldian works that unsettle the organising logics of the international, particularly those applying biopolitics to the liberal problematic of security with reference to liberal war-making, state-building, and security governing²⁵. Both Dillon and Reid as well as Evans theorise 'liberal war', fought in the name of humanitarianism or defence against the inherent evil of terrorism, as operating within a global imaginary of threat in the project of a universal peace. The pursuit of this perpetual peace is predicated upon the pacification and liberalisation (or elimination) of 'illiberal life'.²⁶ I contribute to this poststructural corpus in the study of critical security studies and international relations in tracing the relations of power functioning the presentation of 'unified', 'natural' assumptions in the constitution of security threats and corresponding foreign policy responses. However, in an article for the journal International Political Sociology, Howell and Montpetit-Richter have critiqued the Eurocentrism and related 'whitewashing' of the relationship between colonialism and modernity in Foucault's articulation of biopolitics,

²³ R.B.J. Walker, *Inside/Outside: International Relations as Political Theory* (Cambridge: Cambridge University Press, 1993); David Campbell, *Writing Security: United States Foreign Policy and the Politics of Identity* (Minnesota: University of Minnesota Press, 1998)

²⁴ Mark Neocleous, *Critique of Security* (Edinburgh: Edinburgh University Press, 2008); Pinar Bilgin, Adam David Morton, 'Historicising Representations of "Failed States": Beyond the Cold War Annexation of the Social Sciences?' in *Third World Quarterly* Vol. 23 No. 1 (2002) pp.55-80

²⁵ The influence of Foucault, (has provided a rich field of study and debate in security) and particularly of biopolitics, in security studies has already produced a plethora of work, both empirical and theoretical, on myriad subjects: AW Neal, 'Foucault in Guantanamo: Towards an Archaeology of the Exception' in *Security Dialogue* Vol. 37 No.1 (2006) pp.31-46.; Claudia Aradau, Tobias Blanke, 'Governing Circulation: A Critique of the Biopolitics of Security' in *Security and Global Governmentality: Globalization, Governance and the State* (ed.) de Larrinaga, Doucet (London: Routledge, 2010); Michael Dillon, 'Governing through Contingency: The Security of Biopolitical Governance' in *Political Geography* (2007) Vol. 26 No. 1 pp. 41-47; Michael Dillon, Luis Lobo-Guerrero, 'Biopolitics of Security in the 21st Century: An Introduction' in *Review of International Studies* Vol. 34 No. 2 (2008) pp. 265-292.; Jenny Edkins, Véronique Pin-Fat, and Michael J. Shapiro (ed.) *Sovereign Lives. Power in Global Politics* (London: Routledge, 2004); Giorgio Agamben, *Homo Sacer. Sovereign Power and Bare Life* (trans.) Heller-Roazen (Stanford: Stanford University Press, 1998)

²⁶ Dillon, Reid, *The Liberal Way of War*, and Evans, *Foucault's Legacy*

which is (re)produced in much of the Foucauldian Security Studies literature. In refusing to tackle the racialist and coloniality in the constitution of the modern humanist subject, analyses of 'liberal war' render abstract the relations of security and violence in the conclusion that security is impossible, and therefore everyone is (potentially) dangerous. Montpetit-Richter and Howell argue that in the "fundamental disregard for actual racialized and colonial relations", this branch of inquiry "more broadly obfuscates the fundamentally 'parasitical nature of white freedom' and White security".²⁷ I attempt to consider these shortcomings in considering how human rights concerns are invoked in the rendering of postcolonial spaces as dangerous and threatening to international security and inserting this into a larger history of sovereign capability and racialised notions of 'order'.

Concepts

'Liberalism' is understood as a political and economic ideology based upon the notion of individual liberty and autonomy, where rights are conceived of as protecting the highest amount of freedom for the individual, primarily articulated as the protection of life, liberty, and property. In exploring liberalism as a "principle and method of rationalising the exercise of government", Foucault has noted that liberalism has historically become associated with the risks of "governing too much", a problem of "governing at the border between the too much and the too little" which supposes that the state will curb (individual) liberty if not carefully restricted.²⁸ As will be discussed in the following theory chapter on studying security, as well as in the discussion of Hobbes and Locke in chapter two, liberalism is predicated on a supposed shift from security toward liberty as the organising principle of society. This dissertation is concerned with the exclusions that are constitutive of liberty and how a focus upon individual suffering in liberal notions of rights abuses fails to account for systemic constraints upon 'fundamental' rights and freedoms. While these exclusions are multiple, my analysis highlights the rendering of postcolonial sovereignties as contingent through a universal Humanism.

I explore the meaning of 'sovereignty' in chapter three, however, I want to highlight my use of the term 'Third World' as it is rooted in the historical context of Cold War geopolitics to denote the political denomination of the unaligned nations (introduced by Alfred Sauvy) as well as a moniker that has been adopted as a critical perspective on International Relations, such as in Third Worldism or in Third World Approaches to International Law.

Finally, while my theoretical and methodological framework will be defined and explicated in chapter 1, as I am carrying out a discourse analysis it is important to pin down

²⁷ Montepetit-Richter and Howell p.13 (pp.1-8) question therein is from Toni Morrison, *Playing in the Dark: Whiteness and the Literary Imaginary* (New York: Vintage Books, 1993) p.57

²⁸ Michel Foucault, *Birth of Biopolitics: Lectures at the College de France, 1978-79* (trans.) Burchell (Hampshire: Palgrave MacMillan, 2008) pp.17-19; See also, Michel Foucault, 'History of Systems of Thought, 1979' in *Philosophy and Social Criticism* Vol. 8 No. 3 (1981) pp.353-359; Mark Neocleous, 'Security, Liberty, and the Myth of Balance: Toward a Critique of Security Politics' in *Contemporary Political Theory* Vol. 6 (2007) pp.131 149

what I mean by 'discourse'. Jennifer Milliken defines discourse as "an ordering of terms, meanings, and practices, that forms the background presuppositions and taken-for-granted understandings that enable people's actions and interpretations".²⁹ Discourse is not the representation of objective reality, but rather discourse is a "matrix of social practices" that "generates the categories of meaning by which reality can be understood and explained".³⁰ Campbell notes the importance of recognising discourse beyond the linguistic, as "to talk in terms of an analysis that examines how concepts have functioned within discourse is to refuse the force of the distinction between the discursive and nondiscursive".³¹ In the study of a 'regime of truth', discourse is integral as the intersection between knowledge and productive power, as the power to both define and represent 'reality' as well as silencing and excluding perspective that fall outside of the designated "categories of meaning".

Sources

While this dissertation is concerned primarily with the Cold War and post-Cold War periods, I also refer to the longer histories of both rights and sovereignty, in exploring historical (dis)continuities in the assumptions that are taken as 'natural'. Therefore, I explore the histories of thought by engaging with the canon of political philosophy. Primary sources pertaining to my project are overwhelmingly concerned with the administrations in power at a given time. I examine speeches and interviews, internal memos and reports, as well as the official policy documents conveying US aims in foreign affairs and the perceived role in International relations. I also understand archival research at the Clinton Presidential Library, the National Archives in Maryland, the National Security Archive, and the Library of Congress. The archival sources within this dissertation are primarily concerned with the Carter administration and the navigation of instituting a human rights foreign policy framework, as well as the Clinton administration, with particular attention to the articulation and conceptualisation of both failed and rogue states and the corresponding policies. The sources gathered contain documents including internal memos, notes on speech-writing, and inter-departmental meetings. I also include sources from the US Delegation to the Universal Declaration drafting committee, the McNamara presidency of the World Bank, as well as the US Agency for International Development.

Dealing with foreign relations and international norms, I analyse the policy and actions of international institutions who influence - and are influenced by - US action, behaviours, and often leadership, such as toward the United Nations (UN), the World Bank, and the

²⁹ Jennifer Milliken, 'Intervention and Identity: Reconstructing the West in Korea' in *Cultures of Insecurity: States, Communities, and the Production of Danger* (ed.) Weldes, Laffey, Gusterson, Duvall (Minneapolis: University of Minnesota Press, 1999) p.92; See also, Milliken 'The Study of Discourse in International Relations: A Critique of Research and Methods' in *European Journal of International Relations* Vol. 5 No. 2 (1999) pp.225-254

³⁰ Jim George, *Discourses of Global Political: A Critical (Re)Introduction to International Relations* (Boulder: Lynne Rienner, 1994) p.30

³¹ David Campbell, *Writing Security: United States Foreign Policy and the Politics of Identity* (Minneapolis: University of Minnesota Press, 1998) p.6

International Monetary Fund (IMF). The human rights agenda of the UN, long stifled by Cold War ideological stalemate, has manifest in a number of projects. Noteworthy examples include the United Nations Development Program (UNDP) framework of 'Human Security'.

Reflecting upon source work and the voices that are present, it is important to address the gendered aspects of representation, or to put it plainly, the under-representation of women in circles of power. As this dissertation is directed toward the dominant discourse, even from a perspective of critique, a white, male, elite world of foreign policy making reproduces a focus upon male authority, obscures the often invisible work of women, and can perpetuate a seemingly lack of interest in issues of women. Further, it would be remiss not to mention the disproportionate number of scholars who identify as cis-male in (Critical) Security Studies and International Relations more generally. This dissertation does not sufficiently address - though intermittently explores - the gendered dimensions of the dominant masculine and heterosexed notions of the state, security, and war, and how these are intertwined with race and class.³² Turning to race, while a postcolonial perspective informed my reading to address a "methodological whiteness" that takes place in Eurocentric/Anglo-America IR, taking the US as the site of analysis fundamentally perpetuates the centrality of the West.

Structure of the Dissertation

The content of this dissertation, after an initial theoretical and methodological outline, is divided across three chapters, which emulate my interpretations of the 'regime of truth'. A short note on readability, as there are many intertwined themes, I have attended to limit repetition through footnote-signposts if a topic is addressed more substantially in another chapter. Chapter one contains an explication of my theoretical and methodological approach in relation to the critical study of US international relations and security strategy. I begin by situating my work within the critical security studies field, and clarify my engagement with pertinent concepts such as biopolitics, power/knowledge, and the regime of truth.

Chapter two is then focused on the question of how human rights became considered a problem of US security anyhow this problematic then shapes the expertise and contexts considered relevant. In the third chapter I address 'sovereignty' to interrogate the governable entities produced in this problematisation. This brings us to the final chapter structured around 'pacification', where I analyse the practices deployed in attempts to govern these entities, with a focus on the politicking power of 'other than war'. While chapters two and three largely follow a chronological framework, the final chapter are built

³² To gesture briefly toward the diverse scholars who display the many methods, subjects, and theories of 'feminist' security studies: Annick Wibben, *Researching War: Feminist Methods: Ethics and Politics* 1st Edition (London: Routledge, 2016); Heidi Hudson, "Doing" Security as Though Humans Matter: A Feminist Perspective on Gender and the Politics of Human Security' in *Security Dialogue* Vol. 36 No. 2 (June 2005) pp.155-174; J. Ann Tickner, 'Feminist Responses to International Security Studies' in *Peace Review: A Journal of Social Justice* Vol. 16 No. 1 (2004) pp.43-48

around a further conceptual frame of technologies of warfare. Each section builds upon the last, guiding the reader from the Enlightenment philosophical entanglements of security and liberty through to the practices of humanitarianism as pacification, yet each section also offers a standalone analysis which can allow readers to dive in and out.

Tackling the subject of 'Rights', chapter two sets the scene of human rights historiography and my genealogical method by accounting the predecessors and exploring the ruptures of meaning of Western human rights history in the liberal tradition. Noting the historical touchstones of natural rights, revolutions, as well as the post-WWII international rights framework in the literature, I explore how 'human' life, has become so intrinsically associated with liberal (US-American) values of cosmopolitanism, democracy, and international order. From chapter 2.2., directed toward the institutionalisation and professionalisation of human rights as a facet of US foreign policy throughout the 1970s, I then survey the post-Cold War landscape, particularly with regard to the broadening and deepening of security, where security seemingly donned a human face. I explore what I call the 'scientification of freedom' in benchmarking as used in Human Security as well as US NGO's before turning to the US intellectual landscape in the furthering of a racialised, Islamophobic denial of the rights to life and liberty that are nonetheless coated in a language of freedom and rights - putting both neoconservative and liberal thinkers centre stage. I end the section on rights on the grim reality of torture and targeting in the name of freedom.

From the Human to the Sovereign, the third chapter enters the second movement of the truth-triad. I begin by taking aim at the foundational mythologies of sovereignty that sustain the Western, and specifically Anglo-American, dominated IR imaginary of the International as a field of enquiry. My story of freedom/security is illuminated through reference to Critical Race Theory and studies that highlight the white-washing which pervades IR: specifically in reference to the myths of Westphalia, equal sovereignty and the standards of civilisation, Vitoria as human rights champion, and John Stuart Mill's idea of liberalisms burden, underscored by consideration of the US-Spanish-Cuban-Filipino War. I then tackle the Cold War international of three distinct worlds and the role of development in contested ground across the US-led 'free world', the second of Soviets and satellites, and finally the 'Third World'. Examining development imagined as a collective right alongside self-determination; in the Keynesian modernisation theory; surpassed by the still dominant neoliberal logics, I explore the constellation of a development-security nexus which has taken root in assumptions of the International, where underdevelopment is a marker of unfreedom and therefore as insecurity. This brings us to the End of History in chapter six and an analysis of the Clinton Administration. Across policies such as 'engagement and enlargement' as well as the dual containment of Iran and Iraq, I explore the institutionalisation and formulation of both the rogue state and failed state in US foreign policy as priorities of national security, noting the placing of human rights, development, and security in the state form of democratic governance. The final section of the sovereignty chapter returns once again to the War on Terror, this time focused upon the Bush Doctrine

of anticipatory defence and the 'unable or unwilling' state. The chapter ends with consideration of the stretching of imminence in preemptive war which leads us into the book's final section, where the potential of terror renders states dangerous in their very being, therefore subject to pacification.

The final section of the book opens with considerations of *Humanising War*, the pursuit of a limited warfare in just war considerations that characterise much of liberal discourse. I employ the paradigm of 'pacification' as a critical tool against the ubiquity of security, building upon and moving beyond Foucault's assertion of "peace as coded war". Turning to the practices of pacification, I firstly deal with Counterinsurgency, and more generally with the US military's tendency to side-line so-called small wars, asymmetrical combat, limited operations, or military operations other than war, as a means to explore the coloniality of war as policing power. Against claims of the novelty in the 2000's placement of humanity and humanitarianism at the heart of US war-waging, this chapter will explore the US military history and engagement with counterinsurgency theory in the attempts to win the hearts and minds through knowing the enemy. Finally, I bring the reader to one of the most spectacular issues in the contemporary ethical quandary of modern warfare, the drone. Tracing the supposed 'productive' power of aviation, an assumption that has existed from the inception of air power, the chapter interrogates the supposed humanity in the use of technology that can clear the 'fog of war' and as far as possible flatten human error. From the history of imperial policing by the British Empire in Mesopotamia, the chapter explores the pervasive ideas of surgical precision, the objectivity of data on strikes, and aerial presence as the maintenance of law and order.

The conclusion then pulls together these three strands to build a retort to the cornerstones of a liberal response to illiberalism. Specially, my genealogy explores the faulty thinking behind the notion that to combat excesses of violence and exclusion we simply need *more* liberalism: as in, more 1. freedom, 2. (international) law, and 3. peace. Can we look back to see the contingency, the moments when things could have been otherwise, and engage in our present moment as a point to decentre the White Man at the centre of the Human.

Chapter 1: Theorising Global (In)Security

"It is not necessary to accept everything as true, one must only accept it as necessary"
 - Franz Kafka, *The Trial*

1.1 Critiquing (Critical) Security

"Academia is a space that is 'disciplined' in a completely different way: it is a space dominated by disciplines, which in turn are meant to discipline us. The disciplines exercise discipline. This poses a major problem for developing radical thought within academia".

- Mark Neocleous, 'A Taste for the Secret: Interview with Mark Neocleous' (2014)

Marx identified security as the supreme concept of bourgeois society, as inextricably bound up with a conception of liberty understood as the limitless pursuit and protection of property. The order of capital is fundamentally one of social insecurity, as the bourgeois economic order of capital demands the constant revolutionising of the instruments and relations of production, which produces a politics of security in order to manage the perpetual uncertainty.¹ Security is implicated in the propagation of capitalism - with all of its inequities - as civilisation: security is the ideological justification of the class divisions where the 'natural' composition of wage labour and profit is the society juxtaposed to the barbaric state of nature, and security fixes these relations of dispossession and exploitation from the dangerous forces of the deviants within society. The policing power of the bourgeois state secures the property, profit, and means of production, as well as conserving and (re)producing the subjectivity of the citizen. Mark Neocleous advances this posture in arguing that security is equally the supreme concept of liberal ideology, whereby the purported 'balance' of liberty and security necessary to uphold society shoehorns all issues into a liberal mode of thought, and obscures that "the liberal project of 'liberty' is in fact a project of security".² The assumption that liberalism is the political ideology that will privilege liberty over the pursuit of security, obscures the fundamental relations of (in)security. In this 'age of terror', security saturates our everyday political and socio-cultural discourse: as a core policy aim disputed at the national and international level; as providing the backdrop for popular television drama series, such as 24 and Homeland; and as the subject of exponential likes, posts, and shares on social media, to name but a few. This struggle against 'terror' is purportedly an existential conflict against an evil, inhuman(e) enemy, a remnant of the anti-modern world, with the inoculation of liberalism deemed the only possible (positive) end.

¹ Mark Neocleous, "A Brighter and Nicer New Life": Security as Pacification' in *Social & Legal Studies* Vol. 20 No. 2 (2011) pp.191-208

² Mark Neocleous, *Critique of Security* (Edinburgh: Edinburgh University Press, 2008) Quotation, p.13, and for the analysis of Marxist analysis of security, pp.30-31

The fizzling out of the global ideological stalemate of the Cold War sent reverberations in the academe, which ignited a re-evaluation and interrogation within the discipline of International Relations (IR). This soul-searching is apparent in the fundamental questioning of what was regarded as the inherently policy-oriented sub-discipline, security studies. The production of knowledge regarding security in IR traditionally – indeed, continues to be – focused upon a scientifically calculable notion of security that must be provided for and nurtured by the strategies of the nation-state. Neorealist scholars such as Stephen Walt, while noting developments in the study of International Relations in the immediate post-Cold War by proclaiming a 'renaissance of security studies' aimed to re-affirm the objective, political relevance, maintaining a firmly state-centric perspective to provide for the protection of citizens within its borders. Concerning only matters of survival, he restricts the application of 'security' to the prevention of inter-state conflict by military means.³ However, the disciplined dichotomies that establish and nourish the 'scientific utility' of IR have increasingly been scrutinised. The early 90s saw a growing volume of analyses interrogating the constitutive discursive practice of security in terms of state sovereignty, foreign policy, and human life.⁴ The relevance of such investigations cannot be overlooked, and the foundations laid therein will be drawn upon throughout this dissertation.

The destabilising of the dichotomous worldview was reflected in a flourishing of the pluralistic field of 'Critical Security Studies'; what is commonly referred to as the 'broadening' and 'deepening' of international security considerations, proposed a threatscape conceived beyond belligerence, and subjects beyond the state respectively.⁵ In proposing a variety of different referent objects beyond the state, enacting an expansion in the analyses of threat beyond purely military considerations to encompass environmental, political, economic, and societal issues, and challenging the framing and conception of security itself, this burgeoning sub-discipline has confronted the dominant, state-centric realist approach from a multiplicity of platforms. This security studies industry, works preceded by 'critical' or otherwise, has seen a major post-9/11 boom: the temporally and geographically limitless war inaugurated by the Bush administration pushed security – as the antidote to terror – to the fore. 'Security experts' are called upon to allay fears in the wake of every terrorist attack, or indeed to analyse the rampant Islamophobia, racism, and xenophobia in the selection of, and response to, what is regarded as terror attack. How one

³ Stephen Walt, 'The Renaissance of Security Studies' *International Studies Quarterly*, Vol.35 No.2 (June 1991) pp.211-239

⁴ For examples, ground-breaking works of post-structural international relations include: R.B.J. Walker, *Inside/Outside: International Relations as Political Theory*, (Cambridge: Cambridge University Press, 1993) and David Campbell, *Writing Security: United States Foreign Policy and the Politics of Identity*, (Minnesota: University of Minnesota Press, 1998) which problematise the discipline of International Relations, as an expression of the state and the national identity. Both blur the distinction of inside/outside that sustains the distinction between IR and political theory.

⁵ For an overview of this process of 'broadening' and 'deepening' see: Keith Krause, Michael C. Williams, 'Broadening the Agenda of Security Studies: Politics and Methods' in *Mershon International Studies Review*, Vol. 40, No. 2 (October 1996) pp.229-254 Further, the questioning of the objective condition of security undertaken by Campbell (again) and Michael Dillon, who will be referred to within this work and cannot be overlooked in discussion of the emergence of critical security studies.

understands the concept, the practices, and the sacrifices inherent in the evocation of security is vital in light of the increasingly illiberal measures legitimised, and normalised, by the supposed need to securitise liberal vulnerabilities. What exactly does it mean to adopt a critical position in security studies?

Mark Neocleous noted, in his *Critique of Security*, the overwhelming tendency in re-imaginings and re-framings of security, to expand traditional conceptions of the notion. Attempts to widen the perspectives informing and issues placed upon the security agenda aim to democratise and humanise the project of securitising: such efforts, in striving for alternatives while retaining the lens of security/insecurity, (re)produce the ontological necessity of security and the subjectivities practiced in relation to conceptions of security and insecurity.⁶ A prominent example of a discourse considered to fall within the critical category that has gained traction both in academic and political realms is that of 'human security'. Unsettling the state as security-provider, the individual 'human' as a member of 'humanity' is taken as the subject of a greater security mission wherein we (as one species) must not turn our backs upon those in need, even when challenged by a norm of non-intervention. The institutions and practices of global governance that this reproduces, and the overtly liberal democratic modality of life that is implied to be a secure life will be investigated throughout this work.⁷ Exactly what makes a security stance 'critical' is contested and has been conceptualised in a variety of manners. A survey of all perspectives and categorisations is wholly outwith the scope of this dissertation; I am therefore going to focus upon the three 'schools' of critical security studies. The chosen analytical framework and decidedly 'critical' lens must be elaborated relative to those other avenues of study, stressing the critical distance of the exercise of 'critique'.

In order to elaborate the critical stance this dissertation rests upon, it is important to briefly sketch the other critical schools of thought, to move beyond such a disciplined notion of critical security studies – avoiding the limiting, scientification of knowledge. The normative approach of the 'Aberystwyth School', associated most prominently with Ken Booth, is rooted in Frankfurt School critical theory and oriented toward human emancipation. Booth argues against the statist, militaristic neorealism, indeed considering the state to be most often the site of insecurity to those within and without their borders. Highlighting the ambiguity in the definition of security – as 'the absence of threats' – security is posited essentially as emancipation, in the sense of pursuing the protection and welfare of the individual and rejecting the equation of security with power and order on the international level.⁸ Such an interpretation of security, one that is the path to human freedom, ontologises security as an inherently human value, making all human needs a security concern without consideration of conflicting conceptions of (in)security and the

⁶ Mark Neocleous, *Critique of Security*, (Edinburgh: University of Edinburgh Press, 2008) p.4

⁷ The popularisation of the 'Human Security' framework is addressed in Chapter 2.4. For an example of an emancipatory, inclusive security approach, and the foundational document of the Human Security policy framework, see United Nations Development Report 1994 (Oxford: Oxford University Press, 1994)

⁸ Ken Booth, 'Security and Emancipation' in *Review of International Studies*, Vol. 17, No. 4 (October 1991) pp.313-326

violence enacted in the pursuit of 'security'. The second breakthrough emerging from studies in critical security is that of 'securitization theory'. 'Securitization' is conceived as a process, culminating in the exceptional moment whereby an issue is designated as a security concern by a political actor, and accepted as such by the audience (citizenry). This process is conceived as the performative and discursive aspect of security. The framers of this theory, Buzan, Waever, and de Wilde, consider security to be fundamentally concerned with survival; as the process of a successful 'securitization' enacts exceptional political powers, only existential threats are deemed security issues.⁹ While this theory recognises the social processes necessary to recognise a threat and designate resources to the neutralising of this, the everyday, gradual, and continuous practices that enact 'emergency' powers are ignored in an exclusive focus upon the exception. In juxtaposing the exceptional from normal politics, the decisive sovereign moment from the functioning rationalities of security, this obscures the place of security as a technique of liberal government. Such 'critical' theorising fails to conceptualise security, and the freedoms that are purportedly being defended (from fear, from want, or however else considered), as techniques of government, as ways to govern that produce the 'secure' and 'free' liberal subject.

Both of these approaches are situated primarily (squarely) in the discipline of IR. A third, more loosely defined avenue of critical security thinking challenges the insurmountable dichotomy presented between security and insecurity, embracing an interdisciplinary scope and framework constructed around predominantly (postmodern or poststructuralist) French theorists, which includes perspectives ranging from political sociology and criminology to law and history. This inclusion, and refusal of boundaries, functions to reveal the false dichotomies erected not only between security and insecurity, but also policing and the military, peace and war, inside and outside order and disorder. Working from an interdisciplinary, or indeed an anti-disciplinary posture, such positioning is intended to disrupt the 'truths' perpetuated by the disciplinary knowledges (re)producing IR theory and practice. Often described as 'post-structural' – a label which always carries excess baggage – the works included in this persuasion draw upon Foucault's reflections on war, biopolitics, neoliberalism, the Panopticon, and beyond to explore pacification, policing, and migration, to name but a few. Refusing the categorisation of 'critical security studies', Didier Bigo - a central figure - has worked with scholars across disciplines, nations, and languages to develop International Political Sociology (IPS).

IPS arose from a recognition of the limits of IR in the interrogation of the constitution of the international, which sustains an idealised worldview and presents the international as neutral, stable, and natural. Through conceptual genealogical history, one can unearth the long history of formations: IR affirms a particular idea of what history looks like, and how space and time must have then been. Guzzino has pinpointed both the emergence of

⁹ See: Barry Buzan, Ole Waever, and Jaap de Wilde, *Security: A New Framework for Analysis* (London: Lynne Rienner, 1998), not only for an explanation of the theoretical underpinnings of 'Securitization theory' but also for elaboration on the dynamics of the process in terms of different 'sectors' of security (military, environmental, economic, societal, and political).

International Political Economy and the rise of a plethora of critical lenses in IR - namely poststructuralism, feminism, critical constructivism, and postcolonialism - as opening avenues for critique, welcoming differing theoretical traditions, and introducing alternative perspectives on the political in the international. Both within and without traditional IR, these research agendas have rescued histories and struggles that have been elided in mainstream discourse.¹⁰ The study and theorising of IR has traditionally been organised through the contradistinction of the anarchic international - the Hobbesian state of nature - to the rational, political space of the nation state - bound by the social contract. With sovereign states conceived of as equal actors upon this stage, such a conceptualisation results in the peculiarities of balancing power, enforcing customary norms, and dissuading irrational, destructive behaviour.

Particularly in the post-Cold War context, attention has been drawn to the challenge posed in the fragmentation of political agency from multiple sites: supra-, trans-, and sub-national sites of governance and influence; the increasing mobility of people, capital, good, and information, each posing different problems of security and control; and the strength and vulnerabilities of globalisation, are but a few examples. However, the decoding of such digressions in the separation of domestic/international politics has borne witness to many re-hashings of the whole-parts theory within the imaginary of a 'just', 'whole' global society, which ultimately dismisses contestation as mere disorder.¹¹ The 'ordering' that has characterised the international, whether in terms of taming disruptive states or of categorising dysfunction, is predicated upon a particular meaning of order legitimised through an Anglo-American dominated IR, where international behaviour can be problematized against standards of free movement of capital and limited movement of people. The politics of ordering entails a management of disorder, of blocking or enabling flows.

This is the jumping off point for this work. Rather than taking security as a transcendental and essentially human value as the heart of this analysis, the all-encompassing logic of security is interrogated here as formative of particular behaviours, subjectivities, and retributive actions. This mode of critique proposes security as a mode of governing: what constitutes a security threat is socially constructed and reproduced discursively through the disciplinary knowledges monopolised and proliferated by experts. Didier Bigo and Anasstasia Tsoukala argue that the dominant equation of security with survival, protection, and defence of life ultimately fails to account for, and masks, the violence, coercion, and exclusion engendered in this operation: "Security is also, and mainly, about sacrifice".¹² Knowing who needs to be secured, from what, and by what means presupposes a subject of

¹⁰ S. Guzzino, 'Afterword: International Political Sociology, or the Social Ontology and Power Politics of Process in *Routledge Handbook of International Political Sociology* (ed.) Bilgin, Guillame (Abingdon: Routledge, 2017)

¹¹ See, Sarah Earnshaw, 'International Political Sociology' in *The Palgrave Encyclopedia of Security Studies* (ed.) Thapa, Romanuk

¹² Didier Bigo and Anasstasia Tsoukala, 'Understanding (In)Security' in *Terror, Insecurity and Liberty: Illiberal Practices of Liberal Regimes after 9/11*, ed. Bigo, Tsoukala (London: Routledge, 2008) p. 2 For an elaboration of the Bourdeain/Foucauldian analysis proposed by Bigo also see the chapter 'Globalized (In)Security'

insecurity: an absolute Other that must be overcome.

A prevalent problem posed in the liberal quest for security is the relation to liberty: this is often posed as the question of the balancing of liberty and security for the liberal subject of the democratic society, calculating the prioritisation necessary to live a free, and therefore secure, life. The conceptual framework of balance presupposes both sides of the scale as eternal, natural, and opposite values that are interrelated and quantifiable - balance is perceived as a fundamentally good and healthy pursuit. In the post-9/11 world, this balance has seemingly been tipped and the quest for freedom from terror has legitimised a series of illiberal measures, from renditions to drone strikes. A vulnerable minority - domestically evidenced in the hostility, profiling and increased surveillance of American Muslim communities, and those associated either through race or origin, and internationally as the populations under constant drone surveillance, those innocent civilians rendered, and the 'collateral damage' of bombing campaigns - are therefore made radically insecure in the pursuit of a particular conception of liberty. However, this dissertation seeks to historicise the supposed 'novelty' of this blurring of the distinction between war and peace, in the recognition of racialised hierarchies pervasive in the study of IR.

Bigo has challenged the reproduction in political science and IR generally of liberal democratic and capitalist conceptions of 'freedom', and the projection of this ideal beyond state borders. Liberty is then portrayed as a value, belonging to the frontrunners of human progress in the West, that must be exported to ensure international peace and security. Recognising the heterogeneous nature of the accounts that inform this common, naturalisation of the notions of both liberty and security, Bigo highlights the necessity of interrogating security discourse by unsettling the foundational discourses of liberty upon which these are built.¹³ It is upon this intersection of liberty and security that I ground the analysis presented in this dissertation. What discourses, assumptions, and characterisations of villains do our security practices draw upon? How are the practices of freedom associated with civilisation, human rights, and democracy, then mapped onto the international landscape through the designation of state failure, roguery, and fragility? How can we continue to 'bomb for peace', killing in the name of life? I will now elaborate upon my theoretical toolbox that will be drawn upon to interrogate and unsettle the 'truths' of liberal cosmopolitanism pursued through universal human rights.

This dissertation aims to elaborate a critique of what is proposed as both a product and mechanism of the intersection between security and liberty in present liberal governance – the universalised human rights norms as enforced in American foreign policy and security discourse. The national security agenda is expanded to the global terrain as the 'failed' and 'rogue' states are rendered dangerous to peace and stability through reference to human rights abuse. The referent object of the human-life-to-be-secured is a specific conception of a liberal democratic, capitalist 'human' life. Human rights as negative, civil and political rights of the individual against state oppression, rest upon the mutually reproducing

¹³ Didier Bigo, 'Delivering Liberty and Security? The Reframing of Freedom When Associated with Security' in *Europe's 21st Century Security Challenge: Delivering Liberty*, ed. Bigo et al (Surrey: Ashgate, 2010) p.415

Enlightenment concepts of both the 'rights of man' and the 'nation state'.

The security trade-off between the individual and the state (as the only 'legitimate' political community), is detailed in the foundation of civil society as depicted in Hobbes' *Leviathan*, which envisions the freeing of humanity from the anarchic violence, the state of nature. The establishment of peace entails the relinquishing of a sizeable portion of individual liberty in becoming a citizen of the absolute sovereign. As a pioneer of social contract theory, and a pessimist on the question of human nature, Hobbes saw the State as the source of security; the individual surrendering of particular rights ensured the protection of the Sovereign within a particular space – a society – to pursue individual interest (so long as it does not threaten the collective). The singular entity of the state is then conceived as entering into an anarchic, self-interested system in relation to other states.¹⁴ I will elaborate on this point below in the discussion of natural rights however, I want to immediately draw attention to the fundamental relation of security and liberty in the establishment of governance in Eurocentric origin stories of IR, and to the idea of the bounded sovereign state as the arbiter. The absolute liberty to pursue personal interest in the state of nature is envisioned as the antithesis of society, an untenable situation remedied by the inclusion of security, or rather, the security of inclusion within the state. Further, the existence of this relationship then banishes civil warfare: the anarchic violence of uncivilised existence, absent sovereign and society – is expelled to the borders of the state. The fundamental tensions exist between war and peace, and freedoms and security. I locate the contemporary struggle of a universalised human rights within notions of autonomous nation states at the centre of these notions within liberal thought. This relation of freedom and security, which naturalises both security and freedom while placing these concepts within a calculation, is central to the founding notions of liberal thought, and will form the central interrogation of my dissertation.

This 'interplay of freedom and security' is outlined by Foucault as at the heart of the liberal art of government. Strategies of security provide the calculation of when to intervene, where to set the limits of control. Liberalism is traditionally conceived as the government of individual liberty, as governance clearing spaces of autonomy and independence. However, freedom is not a universal category gradually achieved through the inevitable march of human progress. The markers of freedom, consistently represented as an aspect of human nature, are the practices which animate a particular, liberal capitalist subjectivity. The production and consumption of certain freedoms necessary for the liberal art of government requires limitation and control, regulating in the individual and collective interest. Taking free trade as an example, Foucault highlights the management and production of freedoms necessary for the existence of liberalism as dependent upon, and enabled by, strategies of security in both the individual and collective interest. The possible hegemony of one market must be prevented on the international scale, and internally, the relation of buyers and sellers can only be maintained in deterring monopolisation.¹⁵

¹⁴ Thomas Hobbes, *Leviathan*

¹⁵ Foucault, *Birth of Biopolitics: Lectures at the College de France 1978-1979* (trans.) Burchell (Hampshire:

Freedom of movement can provide another example, as a practice which is monitored, bounded, and limited by a variety of actors in the name of the continued existence of this freedom: the practices of control and exclusion are experienced differentially according to signifiers of suspicion and deviance, while legitimised along the logic of necessity. The minor inconveniences faced by the majority, are underpinned by the detention, the strip searches, and the expulsion of those deemed to be (potentially) dangerous.¹⁶

The "game" of security and freedom, the "economy of power" central to the functioning of liberal governance, is dependent upon insecurity and fear. A constant state of insecurity enables the perpetual striving for the secure state (of being), the fear of unemployment, illness, a terrorist attack: "there is no liberalism without a culture of danger".¹⁷ Universal human rights enable claims to a plethora of issues deemed to be inalienable and available to all humans, while pathologising underdevelopment as a danger not only to the individuals therein, but to international peace and security from the threats that emanate due to this instability - migration, conflict, disease, crime, and terror. This pervasive sense of impending peril, the fear permeating everyday aspects of life in liberal society, cannot be legislated away. The centrality of life, the promotion of species life, overtakes law as the site of political struggle for recognition, which Foucault highlights in the assertion of rights claims; while the language of rights are a cloak of the juridical, such claims of rights to life – freedom from fear, want, alienation, and equality – escape the remit of legislation.¹⁸

The underdevelopment of the analysis of 'liberty' in international relations and political science is lamented by Didier Bigo, who has called for a denaturalising of 'liberty' - recognising freedom as a way to govern - and has conducted research in the direction of a Liberty Studies. Bigo stresses that "we need to understand the practices of (un)freedomization that draw the boundaries of what is lived as freedom and what is lived as obedience, and to discuss the boundary itself", in a project that would critically interrogate freedom, security, the state, and sovereignty.¹⁹ This interrogation must take into account the colonising practices through which the relations of modernity were constituted: the systems of accumulation and dispossession rendered colonial populations as objects and labour to be appropriated on land to be put to 'good use'. The freedom of the 'rights of man' was realised through the absolute unfreedom of the Other. As will be explored in chapter 3, racialised notions of capability are baked into notions of international justice, human rights, and sovereign equality, as the civilised 'free' self is constituted against the barbaric other the addition of the postcolonial on top is not enough, these notions must be

Palgrave Macmillan, 2008) pp.64-65

¹⁶ For an analysis of the freedom of mobility and circulation in liberal context, see Didier Bigo, 'Freedom and Speed in Enlarged Borderzones' in *The Contested Politics of Mobility: Borderzones and Irregularity*, ed. Squire (London: Routledge, 2010) and 'Delivering Liberty and Security? The Reframing of Freedom When Associated with Security' in *Europe's 21st Century Security Challenge: Delivering Liberty*, ed. Bigo et al (Surrey: Ashgate, 2010)

¹⁷ Foucault, *Birth of Biopolitics*, p.67

¹⁸ Michel Foucault, *The Will to Knowledge: History of Sexuality Volume 1* (trans.) Hurley (London: Penguin Books, 1998) p.145

¹⁹ Bigo, 'Delivering Liberty and Security' p.417

fundamentally unsettled. As postcolonial legal scholar Makau Mutua, human rights discourse is "marked by a damning metaphor", "a subtext that depicts an epochal contest pitting savages, on the one hand, against victims and saviours, on the other".²⁰

It is the aim of this dissertation to analyse the connections between war, human rights, liberalism, and security. Unsettling the supposed 'consensus' achieved in the 'universalisation of human rights', I unearth the complex historical processes constituting this assumed, necessary 'good', as well as the problematisation of postcolonial spaces through reference to inhumane governance. I intend my research to resonate with contemporary arguments concerning the (humanitarian) liberal use of force, necessary violence in international peace and security, and the 'human' to be defended. Liberalism relies upon the banishing of war from the life of citizens - when liberal democratic states go to war, it is always in the name of 'humanity', while the capacities to wage war are constantly revolutionised, technologized, and budgets expanded in the securing of humanity from horrors of war. This dissertation interrogates the human life that is to be secured and the challenge this poses to the sovereign state border in US foreign policy, specifically in waging war (or operations other than) in the name of humanity.

²⁰ Makau Mutua, 'Savages, Victims, and Saviours: The Metaphor of Human Rights' in *Harvard International Law Journal* Vol. 42 No. 1 (2001) pp.201-245

1.2. Genealogy: Diagnostic 'History of the Present'

"There is a struggle for the soul of the human rights movement, and it is being waged in large part through the proxy of genealogy"
 - Philip Alston, 'Does the Past Matter'

As the prominent international law scholar Philip Alston noted, "there is a struggle for the soul of the human rights movement, and it is being waged in large part through the proxy of genealogy".¹ The recent surge in historiographical studies that seek to uncover the origins, political meanings, associated movements, and possible future imaginings of human rights have sought to find in history a source of legitimacy or a source of critique. What does it mean to use genealogy as proxy? The term genealogy is frequently evoked, across various disciplines in the arts and humanities, but often without conceptual clarification as to the methodological prescriptions and implications of this historical method. In order to explicate the meaning of 'genealogy' as practiced here, I turn to Ben Golder's illuminating distinction between the 'common-sense' variant and that of a critical genealogy. Turning to the dictionary definition, a personal genealogy is a search for ancestry, an investigation of the 'lineage' or 'pedigree' in the family tree. This search for 'pedigree' is characterised by Ramony Geuss "is one of legitimizing or at any rate of positively valorizing some (usually contemporary) person, institution or thing". The counter-posed critical methodology (which I deploy), is informed by an "oppositional ethos", a political-philosophical approach developed most prominently in the writings of Nietzsche and Foucault.² This critical history, which I will now simply describe as genealogy having noted the variants, is simultaneously a critique of history and a historiography developed as critique. Historical research is used to unsettle, undermine, and ultimately expose the taken-for-granted values and notions that shape the present. Rather than a historical search for origins to underpin and secure the meaning of contemporary practices, Foucault described genealogy as tracing the historical conditions of possibility of those things "we tend to feel [are] without history".³

Wendy Brown notes the genealogical tendency to "disturb a much larger nest of beliefs than the one with which the genealogist begins": in the questioning of a certain belief, their "structure and function in a larger social project" becomes central to the interrogation.⁴ Myriad movements of international relations are unsettled in the genealogical analysis of the logic of humanitarianism: how we understand the universalisation of human rights as the normative basis for engagement in war opens interrelated questions of global order, of the apparent decline of state sovereignty, and of the just protection of the 'human' life that

¹ Philip Alston, 'Does the Past Matter?: On the Origin of Human Rights' in *Harvard Law Review* Vol. 126, No. 7 (May 2013), pp. 2043-2081 p.2077

² Ben Golder, 'On the Genealogy of Human Rights: An Essay on Nostalgia', *Australian Journal of Human Rights*, 22:2, 17-36, pp.18-19 Geuss also quoted therein.

³ Michel Foucault, 'Nietzsche, Genealogy, History' in *Language, Counter-Memory, Practice: Selective Essays and interview by Michel Foucault* (ed.) Bouchard (Ithaca; Cornell University Press, 1977) p.139

⁴ Wendy Brown, *Politics out of History*, p.96 further, Mitchell Dean, 'Prologue for a Genealogy of War and Peace: Genealogical Approaches' in *Handbook of Historical Sociology*, ed. Delanty, Isin (London: Sage, 2003)

is at the centre of humanitarian protection. Foucault elaborates the choice of studying "governmental practices" as a way of subverting the objective status of those notions taken to be without history – objects taken as transcendental and unitary by disciplined areas of study. Reversing this analysis - whereby practices are read through their relation to pre-existing universal categories of knowledge - Foucault proposes the study of these so-called universals through 'concrete' governmental practices to unearth their formation. In an oft-quoted challenge to the standard historical practice, he remarked "let's suppose that universals do not exist. And then I put the question to history and historians: How can you write history if you do not accept a priori the existence of things like the state, society, the sovereign, and subjects?"⁵ Thus, taking the cue from Foucault's exposition, the method is not to ask whether security, or the (in)secure human subject, can be found developing throughout history. Rather, the genealogical method supposes that an objective state of security does not exist. From this assertion, we must examine the practices that are organised around the securing of the insecure subject, and who is excluded.

The genealogical project as imagined by Foucault takes aim at the inherent *value* of the values enshrined in Enlightenment thinking; while Kant critiqued the limits of both knowledge and the authority of the state and church, the transcendental values remained unchallenged. Kantian critique negotiated the necessary limitation of human reason, in discovering the limits of knowledge, the progression of liberty is conceived as tied to the foundation of truth, thereby arriving at emancipation through education and empowerment.⁶ The critique theorised by Kant remained tied to foundational concepts, securing a procession toward liberty through undoubted 'truth'. Nietzsche's lamentation of modern historicism is portrayed in the tellingly-titled 'On the Use and Abuse of History for Life'. Here, he diagnosed his present of late 19th Century Europe as suffering from a "consumptive historical fever".⁷ Nietzsche condemns the shift in contemporary (modern) history that would attempt to replicate the conventions of scientific study, to create a historical *science* of objectivity and fact. Nietzsche celebrates the possible creativity and beauty in historical study, elevating the everyday and rejecting transcendental universals: he scorns the study of other sciences where "generalisations are the most important thing, insofar as they contain laws", rejecting this rigid framework as dulling the human sciences.⁸

The scientification of history demands not only the creation of universal laws abstracted from generalisations observed over large stretches of time, but an assumed 'objective' and neutral observer in the historian. The claim to 'objectivity' is scorned by Nietzsche, as while they claim to occupy a space outside of time, these historians in fact "weave the isolated details into a totality, always on the condition that a unity in the plan in the material has to be established", such analysis finds "the canon of all truths" within the "universal public

⁵ Foucault, *The Birth of Biopolitics*, pp.2-3

⁶ Foucault, 'What is Enlightenment' in *The Politics of Truth*, Michel Foucault (ed.) Lotringer (Los Angeles: Semiotext(e), 2007)

⁷ Friedrich Nietzsche, 'On the Use and Abuse of History for Life' in *Untimely Meditations* [accessed online] <<http://la.utexas.edu/users/hcleaver/330T/350kPEENietzscheAbuseTableAll.pdf>> p.1

⁸ Nietzsche, 'Use and Abuse of History' p.24

opinion of the moment".⁹ While the term genealogy did not appear within this piece, it does provide an account of the grievances with the contemporary, celebrated, status quo in historical study and Nietzsche's intended retort: the method of critique within history demanded that "history must itself resolve the problem of history. Knowledge must turn its barbs against itself".¹⁰

The first investigation to implement this turn from status-quo historiography, was into the historical (social and political) conditions enabling Western morality: or rather, enabling the universal, transcendental, natural status of Western morality. In this famous work, Nietzsche claimed moral value was not an eternal, organic truth: what is deemed to be moral has a history, and this attribute has changed and evolved over time. By interrogating the use and development of concepts such as guilt, conscience, responsibility, sin, and the absolute distinctions drawn in the understanding of good/bad and good/evil, Nietzsche unearths how moral values are produced through social and political interactions, struggles, and conflicts in specific historical moments defined by particular networks of power. In the preface of the text, he articulates what was described as a "new demand" that was to be fulfilled by genealogy: "We stand in need of a *critique* of moral values, *the value of these values itself should first of all be called into question*. This requires a knowledge of the conditions and circumstances of their growth, development, and displacement".¹¹ To uncover the 'development' of morality, to disprove the assumed natural, universal, and timeless quality, was then to enable the possibility for it being otherwise: this was to expose morality as perpetuating prevalent power structures in order to open a space for creativity to imagine alternatives. The attribution of value entails multiple and heterogeneous processes of valuation that are embedded in relations of power and the associated modes of being/modalities of life.

Genealogy is conceived as freeing critique from these bounds of 'truth'. Genealogy as critical endeavour denies the search of originary, unified truth, instead it "attempts to restore the conditions for the appearance of a singularity born out of multiple determining elements of which it is not the product, but rather the effect".¹² In terms of human rights, across multiple historical epochs, rights have engendered different meanings and sustained various power dynamics: the French and American revolutionary rights bestowed legitimacy upon the nation-state through the empowerment of certain members of society, while the contemporary articulation claims protection of the universal human explicitly as the individual-to-be-defended from the oppressive powers of the state. What Harvey refers to as the "bundle of rights" underpinning neoliberalism are those "necessary for capitalist accumulation".¹³ The normative 'values', sustaining particular articulations of power, are

⁹ Nietzsche, 'Use and Abuse of History' p. 23

¹⁰ Nietzsche 'Use and Abuse of History' p.32

¹¹ Friedrich Nietzsche, *On the Genealogy of Morals* (trans.) Smith (Oxford: Oxford University Press, 2008) p.8 (highlighted as in the original)

¹² Michel Foucault, 'What is Critique?' in *The Politics of Truth*, ed. Lotringer (Los Angeles: Semiotext(e), 2007) p.64

¹³ David Harvey, *A Brief History of Neoliberalism* (Oxford: Oxford University Press, 2005) p.181

also productive of corrective measures, as in the postcolonial spaces problematised in terms of rights and subject to pacification.

This process of denaturalising what are taken as essentials, historicising what appears as a given, is done through the exploration of the accidents, errors, and discontinuities to expose the contingency of the emergence of the present. David Campbell, describes genealogy as a methodology of dissent. Campbell's analysis of the centrality of threat to the construction of US national identity certainly dissents from the fixed, known categories of the inside/outside dichotomy constantly reproduced in the study of security, and specifically the interrelations of states, by demonstrating the domestic use of danger in formulating foreign policy. It is argued that foreign policy constitutes state identity in contradistinction to those Other, the threatening. The dissidents of IR do not lay claim to a universality, rather celebrating differences in perspective, discipline, knowledge, and approach in investigating the challenges of global life. Genealogy begins with the analysis of a present set of practices in order to unearth how these rituals of power emerge, gain dominance, and produce politics/power relations. The conditions of possibility relate to how a problem is posed - what are the constraints placed around understanding a problem and solution? How are these historically possible within a specific context? This is intimately bound up with discourse, the construction, dissemination, and use of knowledge in the (re)production of power. Campbell stresses, and it is worth repeating the reminder, this is "neither a purely theoretical nor a purely historical mode".¹⁴

Foucault described genealogy as the 'history of the present' which is neither a reading of the present into the past, nor an attempt to make the inherent progress of the past legible. The explicit focus upon the present is to unsettle the self-evidence of contemporary power relations, to intervene and explore the historical formation of the discourse, the constant contests over the meaning of the object of study. This entails a diagnosis, simply elaborated by Foucault: "What I tried to do from the beginning was to analyse the process of 'problematisation' – which means: how and why certain things (behaviour, phenomena, processes) became a problem".¹⁵ To diagnose is to gauge and analyse difference. Objects do not form the central concern of analysis, it is rather focused upon the 'how' of power (in Foucauldian terms), how power works, when, in which circumstances, and with what effects. The concept of problematisation impresses upon the genealogist that there can be no objective, ahistorical, neutral perspective. Both the researcher and researched are constituted and implicated in the conditions of possibility of present problems, which Koopman describes as "contingent complexes rather than necessary givens": therein lies the capacity for critique.¹⁶ Accounting for contingency and complexity entails a constant scrutiny. Researching the conditions of contemporary problems calls for both a

¹⁴ Campbell, *Writing Security*, pp.5-7

¹⁵ Michel Foucault, *Discourse Truth: The Problematisation of the Parrhesia*, 6 Lectures delivered at the University of California, Berkeley (October-November 1983) [accessed online] <http://foucault.info//system/files/pdf/DiscourseAndTruth_MichelFoucault_1983_0.pdf>

¹⁶ Colin Koopman, *Genealogy of Critique: Foucault and the Problem of Modernity* (Bloomington: Indiana University Press, 2013) p.48. Also see Chapter 3, which offers a robust examination of the subject.

problematisation of the present and the carrying out of a history of problematisation. The problem of how to ensure the maximise security is one of the most pertinent of our time. There are practices regarded as ensuring more or less security in distinct times and spaces, and that enable the exchanging of more or less liberty for security. Problematisation is an intervention into the present to deconstruct what has become problematic and the associated practices to resolve such problems.

In a treatise of genealogy as critical security method, Bonditti et al. illustrate the designation of the status as problem as crucial in establishing "governable entities". When something is deemed to be problematic, this creates a discursive space whereby new "entities" and "political technologies" are able to emerge.¹⁷ The genealogist must trace this emergence, in its complexity and contingency, to unearth how what was previously given – or ignored – becomes problematic and the subject of corrective practices. In terms of this dissertation, the process of problematisation that I detect and wish to uncover is within present practices of international security and global order; it is the problem of the sovereign as security provider – previously the natural state of international affairs – that is posed by the protection of the individual victim of state oppression. The (post-colonial) sites of state failure are subjected to pacification and governance to conform and become unproblematic. The secure human life of this schema is dependent upon a particular conception of human rights, which emerged as the negative rights of the individual, liberal, democratic, capitalist subject in the post-Cold War era, having previously been a contested site of recognition.

¹⁷ Bonditti et al. 'Genealogy' in *Critical Security Methods: New Framework for Analysis*, ed. Aradau et. al. (Oxon: Routledge, 2015) p.169

1.3. The Human Rights Regime of Truth

Through the implementation of a genealogical critique, I propose the existence of a 'human rights regime of truth', wherein a (specific) notion of human rights is tied to (inter)national security, thereby justifying (humanitarian) intervention. This analytical framing exposes a human rights which (re)produces the (neo)liberal democratic order. A regime of truth limits what can and cannot be understood as human rights - obscuring alternatives such as socio-economic, collective rights - as well as structuring who is able to speak with expertise, and the available 'appropriate' action. Human rights discourse is deployed in US foreign policy as a standard of sovereign responsibility, reinforcing the state-centric conception of the international and the related racialised colonial hierarchies of autonomy. Critique "is a matter of pointing out on what kinds of assumptions, what kinds of familiar, unchallenged, unconsidered modes of thought the practices that we accept rest"; to practice criticism "is a matter of making facile gestures difficult".¹ Critique is to question the foundations of our core, taken-for-granted beliefs in their totality, not simply refusing the overt injustices as they arise but rather embarking upon a wholesale disruption of the rituals of power sustaining our everyday practices. This exposure is intended to enable the space for alternatives.

The grid of intelligibility concerning human rights, or how one understands what is meant when 'human rights' are evoked, is structured and constituted through discursive practice. The production and reproduction of discourse across myriad actors, shapes the understanding of both human rights abusers and saviours, that is human rights crises being inflicted through poor or callous governance which demands an international response to relieve suffering and restore order. Human rights abuse has been discursively linked to regional instability and therefore a global (in)security. There exists a particular way to address human rights, as the duties of the sovereign state, where a perceived infraction meets condemnation and possible punitive action by the international community. Only certain states, and only certain violations, are met with such disdain. Failure to meet human rights standards has been tied to a larger constellation of international security in US policy discourse, where the inability or unwillingness to protect and secure their own citizens signals danger to the international political and economic order. To make difficult the facile, it is important to ask what suffering is constructed as a human rights violation, and what is excluded - how are questions on the access to shelter, food, health care, or a basic income conceived as 'needs' as opposed to 'rights'. The reliance upon a presumed 'neutral' evocation of freedom, effaces the constraints that are placed upon freedom in the dogma of a 'freedom of choice'.

Discussing the 'political function of the intellectual', Foucault noted that each society has its own 'regime of truth', understood as "the types of discourse it harbours and causes to function as true; the mechanisms and instances which enable one to distinguish true from

¹ Michel Foucault, 'Practicing Criticism' in *Political, Philosophy, Culture: Interviews and Other Writings, 1977-1984* (London: Routledge, 1990) pp.154-155

false statements"². The regime of truth structures how truth and falsehood are sanctioned, the methodologies that are legitimised as producing 'truth', as well as those who are recognised as able to speak 'truth', the recognition of experts. As one of the most robust articulations of this concept by Foucault, he goes on to outline five 'historically important trails':

"'Truth' is centred on the form of scientific discourse and the institutions which produce it; it is subject to a constant economic and political incitation (the demand for truth, as much for economic production as for political power); it is the object, under diverse forms, of an immense diffusion and consumption (it circulates in apparatuses of education and information whose extent is relatively wide within the social body, notwithstanding certain strict limitations); it is produced and transmitted under the control, dominant if not exclusive, of a few great political and economic apparatuses (university, army, writing, media...); lastly, it is the stake of a whole political debate and social confrontation ('ideological' struggles)".³

This dissertation then studies the human rights regime of truth, specifically in relation to how (overwhelmingly postcolonial) spaces are posed as a problem of international peace and security. This entails a study of how power/knowledge has produced a certain conception of state failure that is tied to the universal human-life-to-be-saved. And further, in assessing the violent practices that are rendered 'humane'.

The use of and contribution to a discourse - legitimate, meaningful, and true - does not imply a unified, homogenous, and calculated political strategy of domination or rebellion. The UN and other international governance institutions, the foreign policy of various states, and the practices of human rights NGOs have contributed to the human rights 'regime of truth'. This is not a conspiracy theory of a global elite pulling the strings, but rather the mutual reinforcement of knowledge production of discourse considered 'legitimate', where experts are in competition to monopolise the 'truth'. Practices are further (re)produced, for example, as the 'consciousness-raising' techniques of domestic rights movements - from the Women's movement - then adopted by Amnesty International greatly informed the Congressional debates in the 1970s that introduced human rights conditions in foreign assistance programmes. Inversely, the study of 'small wars' - encompassing a diverse range of operations from peace-keeping to counterinsurgency - has been subjugated in how war is conceptualised in the mainstream academe, where Eurocentric wars mark historic eras between war and peace, and where the attribution of 'low intensity' has perpetuated a notion of the 'light-touch' or 'minimum force' as liberal war. Foucault uses the term 'discursive formation' to outline the diverse disruptions that contribution in formation, transformation, contradiction, and difference. It is through a "system of dispersion" that one can unearth the unities of a discourse: "whenever, between objects, types of statements, concepts, or thematic choices, one can define a regularity (an order, correlations, positions and functioning, transformations), we will say, for the sake of

² Michel Foucault, 'The Political Function of the Intellectual' in *Radical Philosophy* Vol. 17 (Summer 1977) p.12-14

³ Foucault, 'The Political Function of the Intellectual' p.13

convenience, that we are dealing with a *discursive formation*".⁴

Foucault highlights the constant representation of power in Western societies as a negative, juridical power: power expressed as law evokes the rational, common-sensical, and necessary protection of the individual from the overreach of state power through recourse to a juridical system.⁵ We are all cogs in the machine of power, the grind in multiple mechanisms; power functions in a "network-like organisation" where the individuals that are the focus of power are simultaneously exercising it, as the individual is not simply a target of power, but the effect.⁶ The subject, the individual that the target of power, is in fact constituted in the discourse. Historicising discourse also reveals the subject to be constructed. The study of power relations reveals a complex field, not simply a 'power' functioning as a downward chain of command from the oppressors to the oppressed. The rooting of dominant power takes place across behaviours, specific and local relations, and bodies. While it can be exercised as pure, brute domination, above all power is productive. Evocations of 'right', while referring to a process of legal and normative legitimacy, insert the subject into a specific relation whereby some actions are permitted, and others not.

In his investigation of the discourse of Western superiority in modernity, renowned post-colonial theorist Stuart Hall examines the constitutive binary of 'the West and the Rest', and the relations fomented between these entities. Hall explicates the use of 'discourse' as opposed to 'ideology' in an attempt to break from the implications of true facts and false ideologies, illustrating this by the example of Palestinians struggle to regain land on the West Bank. The designation of these actors as either 'freedom fighters' or 'terrorists' is the result of competing knowledges regarding the Israel-Palestine conflict. In the struggle for discursive dominance both can be construed as either factual statement or ideological posturing, as each position propounds their own knowledges as truth, and excludes alternatives as false, in the pursuit of power.⁷ Hall proposes Said's study of Orientalism as one of the most illuminating examples of the 'regime of truth'. The myriad institutions and discourses which produced 'the Orient' as a homogenous site of enquiry across political, sociological, military, ideological, scientific, and imaginative planes, limited thought and action in 'the Orient'; that is, the assumptions and impositions inherent without Orientalism could not be transcended. As a looming, mysterious but also inherently inferior Other, Said argued that the European culture had strengthened its identity in contradistinction to the Orient.⁸ In the final chapter of this dissertation, I will most clearly articulate through reference to 'military orientalism' and the logics of 'pacification' in

⁴ Foucault, *Archaeology of Knowledge*, pp.

⁵ Michel Foucault, *Power/Knowledge: Selected Interview & Other Writings, 1972-1977* (trans.) Gordon, Marshall, Mepham, Soper (New York: Vintage Books, 1980) p.201; (See also p.96 "The system of right, the domain of the law, are permanent agents of these relations of domination, these polymorphous techniques of subjugation. Rights should be viewed, I believe, not in terms of legitimacy to be established, but in terms of the methods of subjugation that it instigates".

⁶ Foucault, *Power/Knowledge*, p.98

⁷ Stuart Hall, 'The West and the Rest: Discourse and Power' in *Formations of Modernity* (ed.) Hall, Gieben (Oxford; Polity Press, 1992) pp.202-203

⁸ Hall, 'The West and the Rest' pp.205-206

ordering the unruly Other, however, throughout this work I interrogate the dominant discourses of international relations whereby liberal states are the strong, successful, bedrock of international order and cosmopolitan peace, while 'failed' and 'rogue' are the weak and disorderly inverse image. This is intended as a challenge to the ahistorical readings of failure and roguery, which fail to question the peace/war and success/failure dichotomies, rather recognising the (re)production of liberal norms as standards of security (and civilisation), legitimising foreign intervention.

In order to analyse the discourse of state failure and roguery, one must examine: the statements about these conditions conferring knowledge/meaning; the rules of formation that govern what is sayable and thinkable at a given moment; the creation of subjects, such as the innocent civilian or the 'enemy combatant'; how these knowledges were given authority and traction on the international scale; the practices legitimised, namely intervention; and finally, acknowledging that these are historically contingent, meaning that another discourse will (at some point) emerge.⁹ In investigating categorisations of state failure and roguery, as they are developed in relation to a standard of human rights, stresses the historically contingent nature of such objects. The successful, rights-granting, freedom-loving states are the marker by which to judge state behaviour worthy of sovereignty. With the yardstick of a universal rights framework of humanity, came the possibility of failure, and thus the figure of the failed state. The discourse of human rights has become associated with freedom, democracy, capitalism, and ultimately, with humanitarian intervention: the post-World War II conception of the right to self-determination, and the expanding claims of statehood in the wake of decolonisation, produced potential challenges to the dominant economic and political order - combined with anti-communist paranoia - were delegitimised in the dominance of the individual, negative civil and political rights which rose to prominence in the 1970s and were solidified in the post-Cold War context as the universally applicable reading of human rights.

⁹ Stuart Hall, 'Foucault: Power, Knowledge and Discourse' in *Discourse, Theory and Practice* (ed.) Wetherell, Taylor, Yates (London: Sage, 2001) pp.73-74

1.4. Biopolitics: Making Live, Making Die

At the core of this investigation, is an interrogation of the constitution of a universal human subject. How is it that human life is tied to specific spaces through strategies of security in the imaginary of a global threatscape: how are specific modalities of life deemed to be dangerous in their very being in contradistinction to a safe, non-threatening life? How is it that humanism evokes the inhuman(e), whereby inhumane action is legitimised in the struggle against the inhuman? As has been the subject of scholarly examinations regarding the proliferation of humanitarian intervention, the spread of human rights, and the pacific nature of democratic nations, the immediate post-Cold War period bore witness to a period of liberal expansionism: a seemingly unprecedented acceptance of liberal values apparently took hold on a global level. A definitive tenet of liberal doctrine has been concerned with the removal of the condition of war from the life of civil society. The Lockean republic emerging from the state of nature and the Kantian vision of a growing pacific international society of republics both imagine a modernity of liberal peace, referencing the natural pursuit of liberal values of self-improvement and security as an incentive toward peace. While the political strategies of perpetual peace gather pace, liberal countries (some more than others) are increasingly embroiled in humanitarian operations to resolve ancient 'ethnic tensions' or against the transnational threat of 'Islamic fundamentalism'. While peace forms the ends of the martial action, and the veneer of peace and stability shapes the Western experience of war - such as in drone warfare or aerial bombing - the means continually unsettle liberal doctrine, as the pacific nature turns to belligerence. Why is it that the path to peace is beleaguered by perpetual war?

This dissertation is intended as an interrogation of the tension at the heart of the universal - that is, the boundary between the human life-to-be-protected and the non-life-to-be-sacrificed - which is understood as foundational to liberalism. In the literature that examines interventionism that is purportedly to uphold norms of human rights, there is often an effacement of the links between the humanitarian boon of the 90s, and the war on terror. However, the dehumanisation of those other, and the violence that is able to be enacted in the name of humanity, exist between these two planes. I posit the depoliticisation and dehumanisation of spaces and bodies constitutive of the liberal paradigm of human rights, that forms the basis of my analysis, to revolve around the interplay between freedom and security. The 'liberty' that must form liberalism, we are told depends upon a security to exercise such freedoms, both from the perspective of the individual and collective. Thinking of security as existing in a balanced relationship with freedom, or even as the supreme concept, when one is said to impinge upon the other, there must be a sacrifice of freedom - of right to freedom of action - to secure freedom itself.¹ The 'homegrown terrorist' must not have the right to his extremist 'religious

¹ Didier Bigo, 'Delivering Liberty and Security?: The Reframing of Freedom when Associated with Freedom' in *Europe's 21st Century Challenge: Delivering Liberty and Security* (ed.) Bigo, Carrera, Gild, Walker (Farnham: Ashgate, 2010)

expression', to die and to kill others, but in assessing this contingent threat, how far must this restriction reach? In the case of PREVENT strategy in the UK, or the preventive wars waged by the US with all of the 'extraordinary measures' therein, the violation of the freedoms of flagged minorities who pose possible threats to collective, liberal freedom is a balanced security calculation. No matter the language of impartiality in which such policies are couched in, there are particular characteristics associated with danger. This can be examined through the lens of the biopolitical management of life. The inhumanity of the humanism of human rights is blatant in the brutality of 'humanitarian' force. The Obama administration, in discussions² of the dronification of national security, repeatedly referenced adherence to the principle of 'humanity' and the need to self-police such a dangerous method of warfare, while conducting drone strikes that kill civilians, who are placed under a constant surveillance. These populations, the majority of whom are from countries that have never had war formerly declared, are terrorised by the fear of instant-death.

Is biopolitics a useful lens to magnify the flaws and seek alternatives to the shortcomings of the 'universal'? The entrance of biopolitics into studies of IR and specifically security studies has been enjoying a relative flourishing, particularly in the post-9/11 context, and my engagement with these works will be elaborated upon in the next and final section of this chapter. Whether in reflections on global governance or a biopolitical empire, Foucauldian insights on war and biopolitics, and their furtherance by other scholars, have been seen as increasingly relevant to the temporally and geographically limitless war on terror, in its various guises. For the moment, it is important to elaborate upon biopolitics as a useful tool to explore the distinctly liberal security project, and the (in)security engendered, to avoid the trap of exception. Human rights are essentially biopolitical, in the promotion of species life. Liberal rights claims are organised around the right to life, to personal fulfilment, property, and ensuring the limited intervention of government – this universalised freedom must be defended from threats that arise from humanity itself. Biopolitics enables us to unpack and understand the violence that is inherent to a 'universal' human life placed at the centre of security strategies. It is through the lens of biopolitics that one can conceptualise the relation of war to society, and of the exclusionary (in)securitising practices of a universal human rights. Beyond the moralistic musings of the liberal conscience, Dillon and Reid point to an analysis of the martial activity of liberalism as exposing the distinct liberal power relations of biopolitics, founded in belligerence.³

The final chapter of *The Will to Knowledge*, the first volume of *The History of Sexuality*, is tellingly titled 'Right of Death and Power over Life', immediately highlighting the intimate

² United Kingdom, *Present Strategy: Presented to Parliament by the Secretary of State for the Home Department by Command of her Majesty*, Cm8092 (UK: The Stationery Office Limited, 2011); George Selim, 'Approaches for Countering Violent Extremism at Home and Abroad' in *The Annals of the American Academy of Political and Social Science* Vol. 668 No. 1 (2016) pp.94-101; Amber Michel, 'Countering Violent Extremism: Islamophobia, the Department of Justice and American Islamic Organizations' in *Islamophobia Studies Journal* Vol. 3 No. 1 (Fall 2015) pp.127-137

³ Dillon, Reid, *The Liberal Way of War*

relations of death to a power that is focused upon the proliferation of life. In his exploration of biopower, Foucault is undertaking an examination of the paradoxical necessity for death to uphold a society that is ostensibly founded in the promotion and advancement of life. He examines the shift from a purely sovereign articulation of power. The power of the sovereign is exercised in defence to ensure his survival: that is, either through the waging of war or the punishment of treasonous subjects; the sovereign right is the "right to *take* life or *let* live".⁴ Organised around death, the right to life being only the absence of an order to kill (or exposure to death in battle), this power is conceived of as a negative or a subtraction. With the advent of modernity (modern power relations), this power of deduction has become one mechanism among many others: the modern assemblage of power is formed around the promotion, management, and administration of life. However, in this shift from death to life, where death is no longer centred on sovereign right but is rather the opposite of the life that is promoted, we have witnessed an unprecedented increase of the violence of war and genocide. Foucault explains this brutality of this shift, stating that:

"wars are no longer waged in the name of a sovereign who must be defended; they are waged on behalf of the existence of everyone; entire populations are mobilised for the purpose of wholesale slaughter in the name of life necessity: massacres have become vital".⁵

It is no longer the survival of the sovereign but that of species life that is evoked in the need for death. It becomes increasingly evident that the business of making live entails not only letting die but also some *making* die, a thanatopolitics. I situate universal human rights norms within a globalised government of life that functions in an internationalised security framework.

When life becomes the focus of mechanisms of power, how is this life to be understood and problematised? Foucault identifies two strains: biopolitics is said to have emerged in the eighteenth century, as a supplementary power to that of discipline. The distinction between these two powers is centred upon the target: "we have a second seizure of power that is not individualising but, if you like, massifying, that is directed not at man-as-body but at man-as-species".⁶ Distinct from discipline which controls and - if necessary - punishes the individual to create 'docile bodies', biopolitics has a different referent object and operates on a different temporal plane. This technology of power targets the mass, the species-body, which is articulated as the 'population'. The population is problematised at once as political, scientific, and biological; the mass became the object of knowledge through analysing relations between and across human beings as a species within their social milieu (eg. In statistics on birth rates, mortality rates, endemics, environment). Knowing the (ir)regularities of a population, the conditions necessary to propagate the specific conception of 'life' that is represented, is then translated into power through interventions

⁴ Foucault, *Will to Knowledge*, p.136

⁵ Foucault, *Will to Knowledge*, p.137

⁶ Michel Foucault, *Society Must Be Defended: Lectures at the College de France, 1975-76* (London: Penguin Books, 2004) p.243

that regulate, and maximise the desired articulation of 'life'. That is, studying the circulations, risks, and environment of the collective over time is used to create a future-orientated regulatory power. Security mechanisms thus manage the unpredictable elements of society/the mass to "optimise a state of life"⁷. This movement to the promotion and regulation of life from the penance of death is evidence in the shift from the juridical system of law to the poweration of the norm. The population cannot simply be divided into those who obey and those who transgress, a distinction relying on the threat of punishment. Distributing the mass of life to ensure a productive, health, and ultimately valuable population is achieved in reference to a norm: "a normalising society is the historical outcome of a technology of power centred on life"⁸. Further, the struggle over life is evidenced not only in the articulation of the system, but also in those movements which seek to wrest power from the establishment; this struggle continues to the articulation in the language of law, as rights claims. However, the rights in question concern the fulfilment and betterment of human life, these are struggles over modalities of life, over what it means to make life live.⁹ The constitutive power of war, where race acts as a caesura in life promotion, will be explored in detail in the following chapter.

The power of the norm enables regulation at the aggregate level, as in the biopolitical techniques secure the population through the calculation of contingencies. While not exclusive to liberal power, Mitchell Dean notes that biopolitics is a "necessary condition of liberalism".¹⁰ Liberalism is founded upon the promotion of individual freedom, and Foucault pointed to biopolitics as mediating the liberal problematic of how much to govern. While aiming to avoid too much governmental intervention/interaction, the dangers of governing too little could result in a lack of public cohesion, civility, and productivity on which limited government rests. While Foucault failed to directly address the relations of colonialism, and his own role/country/everyday practice of consumption, in considering the development-security nexus Mark Duffield has argued that development should be understood as "a regime of biopolitics that generically divides humankind into developed and underdeveloped species life. As such, it is intrinsic to racial discourse".¹¹ This racialised division between the developed and underdeveloped, charts the liberal problematic of veering too much through the provision of humanitarian assistance, with the attempt to foster a self-reliance - but only when the 'self' aligns with the freedom of neoliberal capita. The failing states must be aided in the path to self-reliance, not only due to the suffering of their own people, but due to the potential security threat that is posed in the underdeveloped world through unconstructed anger such as migration, war, disease, and terrorism. This biopolitical project, aimed toward the defence of freedom and right, is focused upon the management of contingency and the amelioration of global instability. Collapsing the

⁷ Foucault, *Society Must Be Defended* pp.243-247

⁸ Foucault, *Society Must Be Defended*, p.144

⁹ Foucault, *Will to Knowledge*, p.145

¹⁰ Mitchell Dean, *Governmentality: Power and Rule in Modern Society* (London: Sage, 1999) p.113

¹¹ Mark Duffield, *Development, Security, and Unending War: Governing the World of Peoples* (Cambridge: Polity Press, 2007)

internal/international dichotomy, the threats of underdevelopment then demand the management of life-systems according the ideal of 'self-reliance'. I will return to conceptualisations of war and peace through biopolitics in the fourth and final chapter however, having outlined my theoretical framework, I will now turn to the question of (human) rights.

Chapter 2: Right to Life, Liberty, and Security of Person

"The world found nothing sacred in the abstract nakedness of being human"

- Hannah Arendt, *The Origins of Totalitarianism*, p.299

The aim of this chapter is to develop an understanding of the shifting source and subject of 'rights'. The question of rights as a legislative safeguard poses the problem of the subject: who is to be protected, from what, by whom, and through which means? The history of human rights was largely relegated to asides within histories of atrocities or protections, but as a distinct field has been fenced off, the stakes are high in staking claims. Charting the course in a history of ideas can fall prey to teleological accounts of progress, where ancient values were gradually interpreted into law as in their present ubiquity: beginning with the ancient philosophies of Greece and Rome in order to establish the foundations of a fundamental truth, the European Enlightenment ideals of the individual then form the cornerstone, whereby the lasting principles are galvanised in the formation of the nation state and gradually spread across the globe. However, the historiography has been the focus of historians, international lawyers, and human rights activists in attempts to pinpoint a more recent, originary founding moment of the contemporaneous framework - in this competition for precision, there lies the attempt to reveal the core of human rights, whether as a truly universal human endeavour in the abolition of slavery or as a Cold War activist imaginary. Positing the end of the slave trade, the American and French revolutions, or the individual consciousness-raising of the 1970s as definitive, therefore bounds human rights to a particular rights-bearing subject who exists within a specific constellation of power relations.¹ The dominant perception of human rights which guides international governance as well as Western-led humanitarian efforts, places prominence on the protection of the individual. In telling this story, triumphant moments in the development of bourgeois society have been slotted in the human rights trajectory: from revolutionary principles to the defeat of twentieth century totalitarianisms and the installation of order from the horrors of the Holocaust. Those episodes which do not conform – such as colonialism or slavery – are regarded as aberrations. As explicated, a genealogy is not a search for origins, this dissertation seeks to unearth the conditions of possibility of the dominant interpretation in a discontinuous history of that taken to be without history, and to analyse the power relations that are enforced through a monopoly on the discourse of rights. This chapter considers human rights as a site of rupture and conflict. Disrupting the oppressive story of linear progression, I look at the weaponisation of human rights that exclude particular categories of the 'human' in the rendering of *some* sovereignty as contingent, to highlight the inhuman that serves to flesh out the human subject.

¹ For example see: Micheline R. Ishay, *The History of Human Rights: From Anxiety Times to the Globalisation Era* (Berkeley: University of California Press, 2008); Jenny S. Martinez, *The Slave Trade and the Origins of International Human Rights Law* (New York: Oxford University Press, 2012); Samuel Moon, *The Last Utopia: Human Rights in History* (Cambridge: The Belknap Press of Harvard University Press, 2012); Lynn Hunt, *Inventing Human Rights: A History* (New York: W.W. Norton & Company, 2007)

The contemporary reading that has been increasingly prevalent from the post-war order, presents human rights as the foundation of law and order: a disrespect for human rights therefore results in brutal barbarity – those who transgress stand outside of civilisation, in the ancient hatreds of genocidal violence or terroristic tendencies. Within this logic, the UN Declaration stands as a centrepiece of civilised international relations, drafted as a response to fascist murder in the heart of Europe, and presented as a judicial link between human rights and justice, their fragrance leading to destruction and persecution. However, as is well known, the immediate post-war order was simultaneously grounded in the principles of non-intervention, to protect the weakened sovereignty. Thus, human rights standards are not applied in a political vacuum. In this chapter, human rights are explored as a form of knowledge, and I focus on a set of practices which monopolises a particular way of life as the secure life. Human rights as a security practice take place on a biopolitical plane, as life itself - the human species - in both liberal and illiberal forms is at the centre. Those who are not protected by human rights must be schooled and emancipated – or pacified.

How can lines be drawn within humanity, to demarcate a necessary violence? If human rights are simultaneously protected and revoked on account of certain signifiers of humanity, we must determine how, if such characteristics are agreed upon, these then enable martial action in the name of humanity. Who, or what, constitutes 'humanity'? Who, or what, is endowed with the ultimate authority in designating and protecting such rights? Rights that - once recognised - bestow the sanctity of humanity. In order to understand, evaluate, and improve humanitarian intervention practices, one must interrogate the 'human' that is at the centre of such calls to arms. This genealogy is intended as another puzzle piece in the fleshing out of a more complex picture. The goal in interrogating universalism is to unearth the divisive (racist) practices that sustain and perpetuate the liberal use of force. In the foreword to a new translation of *The Wretched of the Earth*, Homi Bhabha urges a re-reading of Fanon in the contemporary political landscape: "New global empires rise to enforce their own civilising missions in the name of democracy and free markets where once progress and development were seen as the shibboleths of a modernised, westernised salvation".² Human rights are central to this discourse of personal development as species security. Those falling outwith the boundaries of humanity are sacrificed in 'humanitarian' intervention, readied for rights.

Rights have been placed in a trajectory, where they have been bestowed from outside rather than conceived as a product of conscious effort: first were those ordained by the divine right of God, then the natural right of peaceful cohabitation that is discovered within humanity itself. In a famous chapter of *The Origins of Totalitarianism*, Arendt laments the situation of minorities and the stateless in their plight for recognised rights. Writing in the post-World War II context, Arendt highlights the emergence of an awareness of a "right to have rights". This right to rights was only recognised in the face of mass displacement in a new globalised terrain, configured around the interdependencies of humanity. The shifting

² Homi K. Bhabha, 'Foreward' in Frantz Fanon, *The Wretched of the Earth* (New York: Grove Press, 2004) pp.x-xi

bases of a naturalised rights discourse is highlighted by Arendt, who spotlights both history and nature as prior articulations, now completely alien to our understanding of the essence of 'humanity', usurped by the authority of 'man' itself, whose unified category has become an "unescapable fact": humanity becoming a conceivable and actual category of life. Taking humanity as both the subject and source of rights, the right to have rights accorded as a member of humanity is assured in the belonging to humanity. However, the permeability of the border of humanity is probed by Arendt. Crimes against humanity can, and have, been justified by "the pretext that right is equivalent to being good or useful for the whole in distinction to its parts".³ When a universalised humanity becomes sacrosanct, anything that resists can become external, threatening, and then disposable. Taking a more contemporaneous analysis, Ivan Manokha has identified the relationship between global capitalism and human rights, exposing the contested nature of the conception the Cold War context that is erased by the steadfast moral leadership of human rights enforcement since the 1990s.⁴ The globalisation of a naturalised concept of individual rights has penetrated the doctrine of just war. As rights become political and moral standards of existence within an international community – increasingly applied to a global scale – these 'universals' have entered the canon of 'just cause' in *jus ad bellum*, paradoxically placing the protection of human life as a moral cause for war, which has been controversially applied in the Bush Doctrine of 'anticipatory self-defence'. While the contestation around who should be secured by rights is forgotten in the ascendance of a unified concept, cries for a tipping of the 'balance' toward liberty in the over-exertion of security must be situated within the centrality of security in the liberal problematic of rule.

2.1 Natural Right: Reason and Revolution

Mark Neocleous notes the distinction commonly made between Hobbes and Locke: the former being an absolutist innovator planting the seeds of liberalism, while the progenitor Locke bound the natural right of the sovereign to the fulfilment of the liberty of the individual. For Neocleous, this is an overly simplified dichotomy, and a dangerous one which reproduces the conceived pacific, paternalistic image of liberalism in which the 'balance' between liberty and security is tipped in the favour of freedom.⁵ As both are theorists of the social contract and natural law, the rational, reasoned consent of man, of the citizen-subject, is central to the legitimacy of the established sovereign power. The shared starting point of the state of nature places the pressure of insecurity at the forefront of organising 'civilised' society. Analyses stressing their conceptual differences claim a divergent post-sovereign-foundation emphasis upon either security or liberty. This chapter seeks to unearth how human rights have become a component of the martial relations of

³ Hanna Arendt, *The Origins of Totalitarianism*, pp.296-299

⁴ Ivan Manokha, *The Political Economy of Human Rights Enforcement: Moral and Intellectual Leadership in the Context of Global Hegemony*, (London: Palgrave MacMillan, 2008) p.21

⁵ Mark Neocleous, *Critique of Security*, pp.13-14

liberalism - as justificatory mechanisms in the liberal way of war. Natural right conceptualises all individuals as essentially free and equal by their nature, and posits the political power invested in the sovereign as established to ensure the fulfilment of the rights to life, liberty, and property. The foundational doctrines of the liberal democratic rights framework form a necessary starting point in the pursuit of the 'human' at the centre of humanity.

It is trite to label Hobbes a divisive figure: he has been painted either as a liberal innovator or a totalitarian enabler.⁶ Describing the lasting importance of Hobbes, particularly in jurisprudence, Costas Douzinas declares him to be "the founder of the modern tradition of individual rights, the first philosopher to replace fully the concept of justice with the idea of rights".⁷ Hobbes laid the foundations for the relationship of the individual to political authority that has proved fundamental in Western, liberal political and juridical theory. The titular Leviathan is formed in response to the precarity and insecurity of the natural state of mankind; Hobbes famously described life in the state of nature as "solitary, poor, nasty, brutish, and short".⁸ Security is thus placed at the core of the contract between individuals to construct the state. This pre-societal mode is envisioned as a condition of conflict, whereby fear of attack and destruction of person and property fuels struggle between men, whose desire to secure and protect is inevitable, as it is in their very nature.⁹ Liberty is understood as complete freedom of action, without hindrance from any laws, duties, or obligations. Sovereignty absolutely lies with the individual, who can do as they please. The potentially threatening action of the other is the only possible - but pervasive - limit. The realist interpretation of the international system has been evoked as an example of the state of nature - each actor posing a potential threat to all others in their protection against invasion.¹⁰ Liberty is therefore conceived as a negative quality; without any restraints, other than the liberty of every other, absolute freedom leads to conflict. The absolute equality of nature is thus a terrifying prospect. The natural right of man, uncovered in this natural state, is therefore that of self-preservation: natural right is understood as "the liberty each man hath, to use his own power, as he will himselfe, for the preservation of his own Nature" where liberty is defined as 'the absence of externall Impediments'.¹¹ As each individual in the state of nature has this fundamental right to self-preservation, Hobbes attests to the fundamental equality and universality of natural right. As Douzinas notes, it is the combination of liberty, equality, and desire in Hobbes's reckoning that creates the

⁶ For further texts on Hobbes: Strauss, *The Political Philosophy of Hobbes: Its Basis and Its Genesis*, Alastair Edwards and Jules Townshend, *Interpreting Modern Political Philosophy*, ((find some other sources to cite))

⁷ Costas Douzinas, *The End of Human Rights: Critical Legal Thought at the End of the Century* (London: Bloomsbury, 2000) p.69

⁸ Hobbes, *Leviathan* p.89

⁹ Leviathan p. 89 "it may seem strange to some man, that has not well weighed these things; that Nature should thus dissociate, and render men apt to invade, and destroy one another ... what opinion he has of his fellow subjects, when he rides armed ... neither of us accuse mans nature in it. The Desires, and other Passions of man, are in themselves no Sin".

¹⁰ Hobbes, *Leviathan* p.149 as well as Introduction written by Richard Tuck pp.xxix-xxx

¹¹ Hobbes, *Leviathan* p.91

conditions of war of all against all.¹² As this absolute liberty engenders absolute insecurity and uncertainty, the social contract is made in the name of securing natural right. Right is thus the absence of law, being completely free to act; the law is an imposition, restrictions on freedom, which are agreed upon as necessary when individuals agree to divest certain of their rights in the creation of a Sovereign. This is the social contract.

Driven by self-preservation, individuals in the state of nature are compelled by the laws of nature. Derived at by 'reason', the first law of nature refers to the individual endeavour for peace (and the resort to the 'advantages of war' if necessary), and the second, in the name of pursuing peace, leads each to relinquish absolute liberty, settling for restricted freedom relative to all men.¹³ These laws of human nature compel the establishment of the Commonwealth, and the divestment of liberty into the figure of the sovereign. Right permits, law restricts. These natural laws then divert obligation and order away from the purview of the Divine, rather rooting society in the individual, in human nature, and the natural right of each.¹⁴ Hobbes details the uniting of the will of the multitude in the founding of the Leviathan - the 'Mortal God' - whose foundation entails the submission of each individual: "*I authorise and give up my Right of Governing my self, to this Man, or to this Assembly of men, on this condition, that thou give up thy Right to him, and Authorise all his Actions in like manner*".¹⁵ In a bid to create security, stability, and order from the chaos of absolute liberty in equality, a covenant is brokered; through the transference of natural right, a sovereign is erected to carry out the collective will. The Sovereign is then the embodiment of the natural right of man, in the establishment of the Commonwealth: "*One person, of whose Acts a great Multitude, by mutual Covenants one with another, have made themselves every one the Author, to the end he may use the strength and means of them all, as he shall think expedient, for their Peace and Common Defence*".¹⁶ The formation of civil society is therefore grounded in the alignment of one's individual desire for self-preservation within a larger conception of security, which is understood to be reached through reason. Assuming that human nature is an objective fact, these natural laws can then be deduced from observing human interaction. Hobbes was driven by a desire to establish the scientification of studying 'man' and he conceived of his political theory as akin to science; human nature can be observed and from these observations, reason is used to calculate the best possible form of civil society.¹⁷ When human nature is taken as objective fact, there is no accounting for the possibility of authoritarian or dictatorial governments. Further, when right assumes an equality and universality, there can be no understanding of colonialism or fascism. There is no failsafe for a government that could be dangerous or violent, even when acting in the name of the majority of individuals. A science of politics that is based upon natural rights offers universal answers.

¹² Douzinas, *End of Human Rights*, p.74

¹³ Hobbes, *Leviathan* pp.93-94

¹⁴ Manokha, *Political Economy of Human Rights Enforcement*, p.87

¹⁵ Hobbes, *Leviathan* p.120

¹⁶ Hobbes, *Leviathan* p.120

¹⁷ Hobbes, *Leviathan* pp.31-37

The political equality that is asserted by Hobbes, does not extend to their material status, to the rights of property. Economic inequality is taken as an objective fact of human society. The wage-labour relation is present in the Leviathan: the political science of Hobbes then institutes this naturalised economic disparity and exploitation, where right is purely individual and political, not extending to wealth inequalities, greed, or exploitation.¹⁸ The inauguration of a Sovereign power, of a Commonwealth, entails the establishment of civil laws which define, according to rules, what is right and wrong for the subject. Individual rights exist as both the instigator and the result of the Leviathan. As the natural right of individuals draw men into the social contract, the founding of society safeguards individual rights, this is at the expense of public, collective rights. This leads Douzinas to lament "the tragedy of individualism": "its attempt to establish law and a system of social relations on their denial, the isolated individual and his rights, can easily end up with their frightening mirror image ... individual and human are often bitter enemies".¹⁹ Hobbes then places security as the ordering principle of sovereign right, with the relinquishing of individual liberty. This is often argued to be the ultimate dividing factor between Hobbes and Locke, Locke presented as the Herald of Liberty. However, as Neocleous has asserted, this reading effaces the violence that is inherent to liberal theory and rule.

Locke similarly begins his analysis of the constitution of government as arising from the state of nature. The pursuit of security was the driving force behind the foundation of the Leviathan in Hobbes' reckoning: the insecurities of the state of nature, an inevitable consequence of absolute liberty, necessitates a greater power for security. The proverbial 'balance' of liberty and security that is so often referred to in our current political vernacular appears for Hobbes to be tipped in the favour of security, while for Locke, liberty is purportedly the more weighty factor: however, Locke should be thought of less as the source of the tradition of liberty, and rather recognised as constructing a "*liberal* discourse on the *priority of security*".²⁰ The supposed exchange relation of liberty-security presupposes liberty and security as relative values, where the promotion of one requires the demotion of the other, identifies both as fundamental, static truths. The source of this conception of Locke as liberal high priest lies in his assurances of the rights of resistance: if a government is tyrannical, restricting the liberty of its subjects, then they 'the people' have the right to revolt, dissolve, and replace. The individual natural right is no longer absolutely deferred and devolved to the Sovereign under any circumstances. While Locke similarly outlines the uncertainty and fear that pervades the natural state, the power of the executive is limited by the institution of the legislature. Locke describes the qualities of paternal, political, and despotical powers: the society established through political power secures the individual through the mutual compact. Locke stresses the role of the magistrate, calling attention to the centrality of the "*Power to make Laws*", as well as fixing penalties to promote the whole "by cutting off those Parts, and those only, which are so

¹⁸ Manokha, *Political Economy of Human Rights Enforcement*, p.87

¹⁹ Douzinas, *End of Human Rights*, p.81

²⁰ Neocleous, *Critique of Security*, p.14

corrupt, that they threaten the sound and healthy, without which no severity is lawful".²¹ The very existence of corrupt portions of society, pathologised as rotten and unhealthy, secures the legitimacy of the Prerogative, the sovereign. This is undeniably biopolitical language, as the surgical removal of those 'corrupt' elements, the legitimacy of rule is secured through the promotion of the healthy body (politic). The power of the sovereign of the common-wealth again undertakes the 'right' of their subjects, but this right is exercised through the writing of law and the relative threat of penalty - including death - as well as the protection of the community from external emergency, in the name of the public good.²²

Furthermore, the inequity of capitalism is again consolidated as a foundational truth of the human subject of rights. The motivation of individuals to shake off the freedom of the natural state is 'the enjoyment of their Properties in Peace and Safety, where the preservation of property is understood as "Lives, Liberties and Estates".²³ This extensive understanding of property offers a different perspective of human nature, which Douzinas pleasingly refers to as "man's devouring right".²⁴ This insatiable appetite of consumption is reproduced and legitimised, inscribed into human 'nature'. The body and skills of the individual that constitute labour form the basis of the right to (the preservation of) property, it is through labour that the individual is able to obtain possession of that which is necessary - or indeed surplus - for a fulfilled and dignified life. The labour potential of the individual is therefore inextricably linked to the right to self-fulfilment, of a flourishing within the secure society. The natural right of self-preservation exists in the state of nature, but with the institution of the social contract and the introduction of monetary exchange for labour, mechanisms are instituted for the accumulation of capital well beyond pure conservation.²⁵ Thus, the individual is placed at the centre of the moral and political constitution of society: property right being the natural right and law of man. Further, the life of the individual is characterised by the capacity of labour. The individual is once again inserted into the centre of the moral and political constitution of society. America was portrayed as a virginal land by Locke, who opened the two treatise with the observation "in the beginning all the world was America".²⁶ A Eurocentric erasure of ingenious people, this purity was imagined as the negation of a lack of moneyed social hierarchies - specifically the lack of a landed gentry, in contradistinction to the decadence of European monarchy at the expense of their subjects. The freedom of the American experience lay in the ability – and right – of all to labour and satisfy their needs (which would not go beyond). Such an observation lays bare the construction of liberalism. This practice of liberty - where political equality is recognised and economic competition valourised - is taken as the natural order of things²⁷

²¹ John Locke, *Two Treatises of Government* (ed.) Laslett (Cambridge: Cambridge University Press, 2013) p.382

²² Locke, *Two Treatises of Government* p.268

²³ Locke, *Two Treatises of Government* p. 350; and regarding the legislature, pp.355-363

²⁴ Douzinas, *The End of Human Rights* p.82

²⁵ Locke, *Two Treatises of Government*, Chapter 'On Property' pp.285-302

²⁶ Locke, *Two Treatises of Government*, Chapter in Paternal Power, pp.49-51

²⁷ Alan Wolfe, *The Future of Liberalism* (New York: Alfred A. Knopf, 2009). Wolfe presents an argument about

While the sovereign was established by the right of the self-preservation of individuals (as life, liberty, and property) and legislature installed to guard against the arbitrary use of power, there exists in Lockean doctrine the executive power of the Sovereign, ostensibly conceived as a final assurance of security in desperate times, this is referred to as the Prerogative. Within the political power of the Commonwealth there exists legislative, executive, and federative power. The executive is intended to enforce the law *within*, while the federative is presented as the communal manifestation of the natural right of man, transposed upon the state unit: the traditional International Relations notion of inside/outside. The Prerogative is developed most clearly in reference to the unregulated international, free from abstract universality. The state of nature, transcended with the constitution of political power, rages on in the international sphere: characterised as a dynamic arena of war and peace, and all the relations in between that assure mutual existence. The federative power is the right of self-preservation guiding international relations - of states in relation to other states - which is the right of all equal and free actors. As the federative is the power to enforce the law of nature in state form, it must be exercised for the common good in defence from foreign invasion, therefore "it is much less capable to be directed by antecedent, standing, positive Laws" and "must necessarily be left to the Prudence and Wisdom of those whose hands it is in".²⁸ While it is the external, international sphere that is presented as the uncertain, insecure realm demanding the assertion of natural right, Locke claims that the relationship of federative and executive power is a close one, a unity of force. Security encompasses both the community of people and the organisation as a state. As has been witnessed throughout the history of security the territorial integrity of the state, but recognised only recently in critical scholarship, this causal equivalence of the executive and federative blurs and supersedes the distinction of inside/outside that is held to be foundational in the political theory of liberal state. Where security dominates the protection of the external borders of the state, this power is given credence in the domestic sphere of liberty. By accounting for the possible lack of legislative power, and necessity of 'prudence', Locke installs the emergency into the norm. The liberalising of the supremacy of security is argued by Neocleous as manifest in this incorporation of the abnormal, extralegal, within the legislative, constitutional framework of the state.²⁹ The legitimacy of the Prerogative cannot be anything other than good and just precisely because of the social contract, handing over the natural right of man in exchange for security. The wise and good prince cannot exercise too large a prerogative, because this is the power to do "publick good", as bestowed by rational subjects. The distribution of power across the legislative, executive, and federative to prevent authoritarianism can no longer be couched as protection; indeed, if the prerogative is abused and used to oppress the peoples, Locke's advice is simply to appeal to heaven as "there can be no Judge on

the complacency of the US and the danger this poses to the liberal way of life (that must be defended).

²⁸ Locke, *Two Treatises of Government* pp.364-366

²⁹ Neocleous, *Critique of Security*, pp.15-21

Earth".³⁰ As the prerogative is fundamentally for the common good, and should thus not be challenged so long as this broader cause is served, Neocleous concludes that "Liberty is natural; security requires political authority".³¹

The centrality of rationality in the construction of a state that is absent arbitrary power is also interesting considering an apparent hierarchy in rationale that is tied to capitalist accumulation. Locke argued that the world was given by God to "Men in common", but that reason was also gifted "to make use of it to the best advantage or Life, and convenience". In a passage that is highlighted by Manokha, Locke asserts that when God gave earth to Man, "he gave it to the use of the Industrious and Rational (and *Labour* was to be *his Title* to it); not to the Fancy or Covetousness of the Quarrelsome and Contentious".³² Thus, the free, rational, and - essentially - *capitalist* subject is at the core of natural right, and the social contract instituting the sovereign. Not only is capitalism the divinely ordained, natural social order of humanity, but the security of man's property - life, liberty, and possessions - is paramount. The absolute power of the liberal state, the sovereign, is articulated by Locke as prerogative, the extralegal force which must restore the fundamental 'goodness' of man and state³³

The prerogative provides a source of swift, decisive action - to be taken by the sovereign/higher powers in society - when the law proves too slow, cumbersome, or ineffective in an area where action would be advantageous or necessary for the community. The legislature was conceived by Locke as assuring the rule of law and ultimately securing the liberty of the subjects from the infringements of arbitrary force. Prerogative places an emergency power in the hands of the sovereign, able to act in lieu of or even against the law, to be used with discretion.³⁴ However, the only safeguard against the exploitation of such a power is provided in the very founding of a society itself: being a covenant of *rational* beings, entering a community for the increased security and liberty of all in a mutual set-up, the prerogative cannot become arbitrary. The tyranny of a master would be the result of a compact of irrational, beastlike subjects (a brutish Hobbesian callback). The continued reference to 'publick good' does not of course account for the invocations of murderous cleansing, etc. Further, the only authority to which subjects can ultimately turn under a soured prerogative, is the divine.

Legislating Revolutionary Fervour

In the fresh glow of the dawn of the Enlightenment, right had been transferred from God to human nature (not without its critics, which I will elaborate upon in the proceeding section). An abstract conception of man wherein the fault-lines of race, gender, ethnicity,

³⁰ Locke, *Two Treatises of Government* p.379

³¹ Neocleous, *Critique of Security*, p-22

³² Manokha, *Political Economy* pp.88-89 and Locke, *Two Treatises of Government* pp.285-302

³³ William E. Scheuerman (ed.), *Beh Rule of Law under Siege: Selected Essays of Franz L. Neumann and Otto Kirschheimer* (Berkeley: University of California Press, 1996) pp.102-103

³⁴ Locke, *Two Treatises of Government* pp.374-380

class, had been papered over; in the revolutionary breaks of the late eighteenth century, natural right was put to the constitutional test in the simultaneous establishment of modern nationalism. Natural right was enshrined in the declarations of the new, capitalist nations, which declared universal and inalienable rights as founding notions. These revolutionary documents are generally regarded as ushering in the beginning of modernity: as instituting the Enlightenment ideals of the individual subject, liberty and equality; solidifying the shift to a capitalist economy; and instituting the development of the modern idea of the nation-state, as the expression and protection of citizen rights. The epistemology of the political subject was overhauled. The American and French revolutions differed in their objectives: while the former was a political action to liberate and forge entirely a nation from the oppressive limitations of colonialism, the latter was concerned with freeing the French people from an aristocratic society, making anew, and overthrowing the dominant social order.³⁵ This variation is evidenced in the articulations of rights expressed by both new nations; The American *Bill of Rights* appeared in 1791 as a series of amendments to the Constitution of the newly independent state, while the French *Declaration of the Rights of the Man and of the Citizen*, adopted in 1789, is the central document of the revolution and the founding of the new order, acting as a preface to the Constitution.³⁶ While the Americans cleared the way for the proper functioning of the naturally occurring laws - that had been hindered by outside interference - France contended with the erosion and corruption of human nature and legitimate rule that had taken place in the *ancien régime*. Both projects articulated the institution of the legal foundation of the modern state, upon which stands the emancipated subject, free from all political oppression. In the recognition of natural right, which had suffered distortion and suppression, the power to rule was perceived as subject to reason, as expressed through the rule of law.³⁷

Such references to reason, law, and emancipation are made in reference to the abstract notion of 'man'. Placing the protection of the rights of man from the overreach of (state) power as central, the power of intervention held by the state in 'neutral' matters is relinquished. The sphere of civil society is freed from overarching moralising, reigned over by the pursuit of individual freedom (hindered only by conflicting interest/infringement of others). The US Declaration of Independence states "we hold these truths to be self-evident, that all men are created equal; that they are endowed by the Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness", then going on to recognise the legitimacy of dissolving any form of government that "becomes destructive of these ends". The French similarly begins with the assertion that "Men are

³⁵ David Gress, *From Plato to NATO: The Idea of the West and Its Opponents* (London: Free Press, 1998)

³⁶ The French Declaration was greatly influenced by the ideals of the American, evidenced by the involvement of Thomas Jefferson in their drafting. However, the differences in context were recognised in the parliamentary debates of the French National Assembly of July and August 1789. See Susan Dunn, *Sister Revolutions: French Lightning, American Light* (New York: Faber and Faber, 1999)

³⁷ Costas Douzinas, *End of Human Rights* pp.90-91. Douzinas discusses the varying strategies of the American and French revolutions in the struggle for recognition. France is characterised as "moral and voluntarist" while American "passive and optimistic".

born free and remain free and equal in rights".³⁸ Of course, once the notion of 'Man' is complicated by sex, class, race, and other identities that do not conform to the white, property-owning male, it is clear which 'man' naturally holds right. In the US, these 'inalienable rights' did not extend to the humans regarded as objects, as slavery continued for almost a century and through a brutal civil war. The refusal of the US to recognise the second American republic to win independence from the European imperial powers poses an example of the exclusions in contemporaneous as well as present lens of revolutionary rights thinking. As the Haitian revolution was a slave revolt against the French colonists, the US declined to recognise the independent state and sought to isolate the state for fear of a similar rebellion on their own shores, also enforcing the indemnity that Haiti was forced to pay to the imperial French powers³⁹. In a documentary history, Lynn Hunt addresses the debates held within French revolutionary society regarding the rights of those who had been, and in many respects some continue to be, excluded from the sanctuary of rights. Considering the plight of the poor, religious minorities, free blacks and slaves, and women, Hunt presents a brief analysis and the original documents relaying the debates on their inclusion.⁴⁰ The rights-holder as male citizen was constituted through the exclusion of the Other, through recognition of what *he* was not: "Maleness was equated with individuality and femaleness with otherness in a fixed, hierarchical, and immobile opposition [...] the political individual was then taken to be both universal and male".⁴¹ This inclusion is continually presented in terms of citizenship. Rather than focusing upon fulfilling the breadth of the promise of rights of man, the question of citizenship, and who is protected by law, retained dominance.

Tackling the apparent ascendance of these abstractions, in the essay 'On the Jewish Question' Marx hones his analysis of the vast distinction between political and human emancipation. As a retort to the work of the Young Hegelian, Bruno Bauer, Marx systematically exposes the barriers erected within the 'universal' by the natural rights of

³⁸ Thomas et. al. *Declaration of Independence* (4 July 1776); United States of America, *The Constitution of the United States*, Amendments 1-10 (15 December 1791); National Assembly of France, *Declaration of the Rights of the Man and of the Citizen* (26 August 1789)

³⁹ Gabriel Moran, *Uniquely Human: The Basis of Human Rights* (Bloomington: Xlibris, 2013) p.77: Office of the Historian, 'The United States and Haitian Revolution, 1791-1804' in *Milestones 1784-1800* <<https://history.state.gov/milestones/1784-1800/haitian-rev>>; C.L.R. James, *The Black Jacobins* (New York: Vintage Books, 1989); Robert Shilliam, 'What the Haitian Revolution Might Tell us about Development, Security, and the Politics of Race' in *Comparative Studies of Society and History* Vol. 50 No. 3 (July 2008). Shilliam proposes study of the Haitian revolution as an example to address the "generally under-theorised relationship between slavery, race, and modernity" and to unsettle thinking on the international order: "What the revolution might reveal to us is just how deeply the making of the modern world order has been driven by a struggle between the First and Third Worlds over development and security, a struggle foundationally constituted (though not, of course, exclusively so) through the politics of race"; Philip Kaisary, 'Human rights and Radical Universalism: Aimé Césaire's and CLR James's Representations of the Haitian Revolution' in *Law and the Humanities* Vol. 6 No. 2 (2021)

⁴⁰ Lynn Hunt, *The French Revolution and Human Rights: A Brief Documentary History*, (Boston: Bedford Books, 1996)

⁴¹ Joan Scott, *Only Paradoxes to Offer: French Feminists and the Rights of Man* (Cambridge: University of Harvard Press, 1996) p.8

'equality, liberty, security, property'. An exploration of the religiosity (re)produced in the separation of civil society and state, Marx critiques the construction of an "unreal universality".⁴² While man as 'species-being' is said to form the basis of the state, this political formation devoid of all distinction is presented as an otherwordly, heavenly, plateau of the universal. The complete erasure of the individual in the state and their absolute insertion in civil, the public and private, recognises a Man that is simultaneously bloated with associations and devoid of concrete meaning. The species life of man, whose exercise of free will is the natural right of human nature, is imbued with particular assumptions about what constitutes this natural-ness. Equating the sovereignty of the people with the sovereignty of the nation, universalises the perspectival 'modality of life' championed by the victors in the struggle to rule.

Not only is political emancipation not equivalent to the liberation of humanity, but liberal emancipation in fact further separates human-as-species: purportedly grounded in the reasoned rule of law and rights, divisions are entrenched - and concealed - in the name of security. To elucidate this point, liberty is outlined in the declaration as the freedom to act, so long as no harm is done to others. It is then not the association of common humanity that is fostered with the right of man to liberty, but instead the "*right of this separation, the right of the restricted individual withdrawn into himself*".⁴³ The natural right to self-preservation - preservation being hindered by the mere existence of others - insulates the self. Similarly, the right to property isolates the individual in the pursuit of bare self-interest. As alluded to in the opening chapter of this work, Marx identifies security - that he sharpens by reference to policing - as the 'highest social concept of civil society': the social contract is configured with the sole purpose of self-preservation, the self-to-be-protected encompassing the corporeal, material, and legal subjecthood.⁴⁴ Presupposing equality in the ability of all humankind to pursue such liberty, society is concerned with non-interference, the "not governing too much" of liberal governance.⁴⁵ At this point, there is an important reminder of the existence of the interplay, fundamental to liberalism (and my critique), of security and freedom: liberal intervention is predicated on the existence of (existential) threat, self-preservation being the preeminent natural right. Liberty then, is dependent upon what is understood to cause harm - a historically contingent qualifier. It is insecurity and isolation that configure freedom of action.

A crucial figure in the proliferation of the ideas of the rights and revolutions, is Thomas Paine. A driving force of the 'Atlantic-democratic revolution' and personification of the (international) political currents, Paine is a useful figure in highlighting the intertwinement of the rights of man and citizen with liberal political philosophy in the founding of these two capitalist states. A central intellect in the rousing of the American revolutionary moment

⁴² Karl Marx, 'On the Jewish Question' in *The Marx-Engels Reader* (ed.) Tucker (New York: Norton and Company, 1978)

⁴³ Marx, 'On the Jewish Question' p.12

⁴⁴ Marx, 'On the Jewish Question' pp.12-13

⁴⁵ Foucault, *Birth of Biopolitics*

and fierce proponent of the French revolutionary ideals, the Englishman became a citizen of sorts in both countries, ultimately believing himself to be a citizen of the world.⁴⁶ Robert Lamb has sought to reclaim a coherence in Paine's work, which he perceives to have been sullied by an over-recognition across the political spectrum from the 'Tea Party' right-wing to references by Obama. The argument proposed is that Paine offers an essentially *liberal* theory of human rights which resonates with our contemporary understanding. The liberalism referred to, recognised as a complex of intellectual strains within a historical tradition, is recognised by the "commitment to the normative sanctity of the individual".⁴⁷ Exploring the connections of French philosophical thought as well as the many military ties of French soldiers who fought in solidarity in the American war of independence from English colonial rule, Paine portrays the (kindling) of a universal movement toward liberty. The presence of Benjamin Franklin is outlined as particularly notable in his role as the Minister from America; as one of the architects of this new nation, carved out from the principles of right, he is described by Paine as an ambassador of Man. The import of the American experience as providing the very structure of this new articulation of governance is further stressed: "the American constitutions were to liberty, what a grammar is to language: they define its parts of speech, and practically construct them into syntax".⁴⁸ There can then be no discourse of liberty that was not fundamentally referring to the American revolution. Freedom was filtered through the lens of the American emancipatory experience.

While this specific experience was portrayed as the contemporaneous embodiment of the new government founded in the natural rights of mankind (flowing from particular hotspots), Paine situated these revolutions temporally within a longer development of human governance. Envisioned simultaneously as a rupture and a return, he argued that former so-called 'revolutions' had simply solidified the status and power of specific sections of society, corrupting rule and limiting freedom. With the unique experience of the American revolution, which provided the 'grammar' for the French overthrow, the conditions were created for the "renovation of the natural order of things, a system of principles as universal as truth and the existence of man, and combining moral with political happiness and national prosperity".⁴⁹ Contrasting the 'old' and 'new' systems of government, the former is characterised as hereditary and power-hungry while the latter is representative: the republican state is laid out as peaceful, as truth, and as based upon principles of "universal society" as well as "universal commerce".⁵⁰ The bourgeois revolutions secured the ascendance of the 'new' system, establishing the victory of the capitalist system over the old feudalism. The unrestrained relations of the free-market were

⁴⁶ See the special issue 'Thomas Paine: A Transatlantic Republican between Two Revolutions' in *Journal of Early American History* Vol. 2 No. 3 (November 2016)

⁴⁷ Robert Lamb, *Thomas Paine and the Idea of Human Rights* (Cambridge: Cambridge University Press, 2015) pp.1-4

⁴⁸ Paine, *Rights of Man* pp.146-147

⁴⁹ Paine, *Rights of Man* p.194

⁵⁰ Paine, *Rights of Man* p.223

naturalised as a facet of mankind's inheritance of freedom and equality. Paine argued that the greater level of civilisation, the less need for governmental intervention, achieving a level of self-regulation. Further, all the 'great laws of society', that govern the interactions of individuals, are founded in nature. The rules of trade and regulation spring from mutual and reciprocal interest.⁵¹

Paine's *Rights of Man* was penned as a direct response to the admonitions of Burke regarding the French revolution. Douzinas draws out the critiques from both ends of the political spectrum of the figure of 'man' instilled with natural rights; for Burke, the level of abstraction rendered any concrete policy articulation unworkable, while Marx viewed the central 'man' as the too concrete and conceptually laden bourgeois, white male.⁵² How was legislating for the protection of this universal humanity to be handled? Here enters the national articulation. The first three articles are understood by Paine to be the essential tenets of the declaration, the proceeding statements being enhancers or elucidations. Taken together, the articles are thought to establish the roots of liberty - the founding cause of liberalism - at both the individual and collective (national) level. The first declares the birthright of freedom, and the second the establishment of government to be for the purpose of ensuring the natural rights of the equally free individual subjects. Article 3 declares 'The principle of all Sovereignty lies essentially with the nation. No group, nor individual may exercise any authority that does not expressly proceed from it'. Herein lies the central paradox that continues to plague international law, International Relations theory, and the application of humanitarian efforts to this day. The legitimacy of the state is declared through the natural sovereign right of 'man' being relinquished to the natural, sovereign right of state (which can be overturned in the case of unjust rule). The state as the expression of the will of man - specifically, a section of mankind within the state borders - was cemented in these declarations. Paine's theorisation of a legitimate national government requires both the consent of the citizens and the protection of individual rights. To unpack the apparent tension of such a mutual dependence, Lamb highlights the dependence upon a non-specific value of freedom, claiming it as integration to Paine's thought. In guaranteeing a "certain *level* of freedom for individuals", rather than specifiable end-based liberties, both conditions can exist harmoniously as tied to the value of freedom: as an example, the consent of citizens to a harmful government, relinquishing rights, would not be legitimate as freedom would be sacrificed. Consensual enslavement is illegitimate as it contradicts the self-interest of liberty.⁵³ Freedom is constantly being produced, or what is understood to be the expression of freedom.

While the revolutions solidified the age of the Enlightenment subject of reason, they also inaugurated the modern nation-state as the institutional reflection of the peoples sovereign will. This 'unreal universality' is secured by the state. Conceived of as a legitimate distinction of humanity, the state acts as a distinct individual actor within the international

⁵¹ Paine, *Rights of Man* p.216

⁵² Douzinas, *The End of Human Rights* pp.99-100

⁵³ Lamb, *Paine and Human Rights* pp.70-71

sphere. However, the legitimacy of rule for Paine is ensured only by adherence to a particular civil society, that is by adhering to rights that (re)produce liberal norms of individual self-sufficiency governed by market forces. This legitimacy distinction in international relations tied to the honouring of rights is also explored by Paine in relation to warfare. Paine's thinking in the association of unjust war with the actions of a 'false system of government' is highlighted by Dillon and Reid. Beyond this, they further recognise the role of Paine in the affirmation of just action with the liberation of humanity, as destitution "lies not in any natural defect in the principles of civilisation but in preventing those principles having universal operation".⁵⁴ If there must be war, it must be for the furtherance of liberty borne through natural rights. These reflections upon belligerence lead Paine to the claim that the extinction of barbarous governments will mean Man will no longer hold "the savage idea of considering his species as his enemy" which leads Dillon and Reid to pose a number of questions based upon this core problematic: what will be the outcome when liberal rule (and war) "goes global" in pursuit of emancipation; what happens to war, when waged in defence of the species and not the "supposedly limited interests of the sovereign".⁵⁵ What elements of human life do not fit with the promotion of the species?

Rights defined as both equal and inalienable infers they are not subject to division, to the whims of withdrawal by national governments, or indeed any particularities. The spatial imaginings of territory that are associated with the nation state will be explored further in the next chapter, however, it is important here to highlight the paradoxes emerging from the very inception of the State founded on the protection of the natural rights of Man. The French Declaration itself points to this tension between the global and the local: The Declaration of the Rights of the Man *and of the Citizen*. These tenets, while universally applicable and necessary for the healthy political promotion of man-as-species, could only be pursued at the local level. The privilege of citizenship, the ultimate marker of nationality, is the privilege of nationalism, and all of the exclusionary practices that emerge therein; colonialism, ethnic cleansing, statelessness, refugees, and the rest.⁵⁶ The hierarchy of the 'rational' enlightenment subject is realised in the status of citizenship. The fictional individuality of civil society and the abstract universality of the state highlighted by Marx is mediated and masked through citizenship, the recognition of belonging to a community (that is, the capitalist community of a republic).

As noted, the political legitimacy of a sovereign nation was limited in Paine's thought by the necessary adherence to the recognition and protection of individual rights. Sovereignty was thus tied to a liberal, capitalist articulation of governance. Lamb argues that the cosmopolitan writings of this 'citizen of the World' reflect the 'rootlessness' of Enlightenment thought, extolling a faith in the universal validity of moral and political claims

⁵⁴ Paine quoted in Michael Dillon and Julian Reid, *The Liberal Way of War: Killing to Make Life Live*, (London: Routledge, 2009) p.4

⁵⁵ Dillon and Reid, *The Liberal Way of War* p.30

⁵⁶ Douzinas, *The End of Human Rights* p.103

that promote the sanctity of the individual.⁵⁷ This apparent rootlessness is very much rooted in liberal principles of freedom, self-sufficiency, and prosperity effacing the inequality therein. The declarative process of the rights of humanity tied to the legitimacy of the state then institutes the power of government based in exclusion, instituting a constitutional law honouring the equality of man as expressed through the relationship of citizenship. The social contract is solely between those who establish the law and those who are subjected. Subjectivity as citizenship is founded in the exclusionary violence of those whose humanity established state legitimacy, while nevertheless standing outside - someone else's problem.

Positivism: "Nonsense on Stilts"

The situated embrace of a wider humanity, where the rights of Man were expressed through bounded citizenry, grounded in Natural Rights lost popularity in the 19th century, giving way to the rise of legal positivism. In the political arena, the fledgling movement toward the modern nation-state that we recognise today had to be protected against the destabilising, emotionally-charged, and folly of the natural rights. In the exchange of ideas, the title of Jeremy Bentham's essay, *Anarchical Fallacies*, is telling: the celebrated founder of utilitarianism (the greatest happiness for the greatest number) launches a systematic critique of the French Declaration, and by extension any articulation of Natural - or in today's parlance, human - rights. Famously referring to natural rights as 'nonsense upon stilts', Bentham chides the concept as mischievous and anarchical fictions that will result only in civil disobedience and revolution: rights are derived from law, and law is the purview of the sovereign power, natural rights serving only to undermine that authority.⁵⁸ The European project of utilitarianism, of colonialism and empire abroad, and nationalism. The cold, scientific, rationale of positivism, purportedly amoral and apolitical, was part of a larger power/knowledge of eurocentric imperialism, lending a scientifically factual hierarchy, based upon Social Darwinism and social engineering, as well as racial and sexual dominance at home as well as colonial civilising pacification.⁵⁹ While the international implications of sovereignty relations will be turned to in the following chapter, positivism placed the empirical as central in the Western juridical system, and solidified this Western perspective across Europe and North America. The, at least idealised, moralistic concern for common Man, of natural rights are deemed abstractions and mythical traps by law conceived as the direct will of the sovereign, not subject to moral evaluation and validation. Costas Douzinas notes this shunning of individual rights as defence from tyranny and state power, and highlights the epistemological and disciplinary turns, where political philosophy and law transformed into political science, history the philosophy of history, and the

⁵⁷ Lamb, *Paine and Human Rights* pp.155-156

⁵⁸ Jeremy Bentham, 'Anarchical Fallacies; Being An Examination of the Declaration of Rights Issued during the French Revolution' In Jeremy Waldron (Ed.) *Nonsense Upon Stilts: Bentham, Burke and Marx on the Rights of Man* (ed.) Waldron (Oxon: Routledge, 2016); see also, Hugo Adam Bedau, "Anarchic Fallacies": Bentham's Attack on Human Rights' in *Human Rights Quarterly*, Vol.22 No.1 (Jan 2000) pp.261-279

⁵⁹ Jack Donnelly, 'A New Standard of Civilisation?' in *International Affairs*, Vol. 74 No.1 (Jan 1998) pp.5-6

development of overarching social theories.⁶⁰ The intellectual milieu was marked by the figures such as Hegel, Marx, Weber, Freud; society was no longer the result of the agency of the individual, of a social contract for the protection of rights in return, instead, the implications of social processes and mechanisms were brought to bear on subjectivity. Auguste Comte situates the rights of man discourse as a reaction, "useful in demolishing old feudal-military policy and in exploding the myth of divine rights", which had not captured a new imagination to offer a replacement.⁶¹ The historically contingent necessity of the abstract Man to claim power from the Divine, from monarchy, or the colonial oppressor was believed to have served its purpose.

The binding of morality and legal legitimacy in natural right was uncoupled by legal positivism: what is a legal right has no bearing on a moral right, legality being derived solely from the societal customs and norms, malleable by people (with authority). Legal positivism treats law, separate from prescription and moral duties, as an object of scientific study. The amoral legal framework of Hobbes' Leviathan is realised in positivism, where natural right is surrendered to the sovereign. Positive law springs from the power that evokes it, from the state that is instituted to protect the rights of the governed, to the best possible outcome of the collective. Law, as the enactment of state will, was then the mirror image of the free will of the individual, which Douzinas relates to the Foucauldian interpretation of emancipation as shadowed by a 'technology of legislation' and self-fulfilment through disciplinary apparatus producing docile bodies.⁶² Foucault described his analytical target, liberalism, not as an ideology or theory, but as a rationality of government, as practice. Liberalism is fuelled by the idea that there is a constant threat of governing too much, a suspicion that an excess of government will allow the state to limit the freedoms and security of the governed. The recognition of this risk then poses the question: why is it necessary to govern in the first place? It is by reference to society, including the freedoms of the individual, of movement, speech, and the free market, that this question is posed.⁶³ Mark Neocleous surveys a host of thinkers of the liberal enlightenment - both more and lesser well known - exposing security as the cornerstone of liberal thought, built on the assumption of society as fundamentally insecure. Liberty is wrapped up in the pursuit of security, security being the freedom of the individual to pursue self-interest.⁶⁴

Security is tied to the emergence of the modern nation state, but Neocleous warns us that we must also recognise the equally important association with the rise of 'bourgeois property and liberal order-building': the security of liberalism "was intimately connected to its vision of political subjectivity centred on the self-contained and property-owning individual".⁶⁵ In the mid-18th century, Foucault identifies the theorisation of the market as

⁶⁰ Costas Douzinas, *The End of Human Rights* pp.109-110

⁶¹ Auguste Comte, *the Positive Philosophy of Auguste Comte* (ed.) Martineau as quoted in Douzinas, *The End of Human Rights* p.112

⁶² Douzinas, *The End of Human Rights* p.110

⁶³ Foucault, *Birth of Biopolitics* pp.317.319

⁶⁴ Neocleous, *Critique of Security* pp.24-28

⁶⁵ Neocleous, *Critique of Security* p.30

natural, naturally containing mechanisms of regulation. The problem then arose of how to formulate laws of governance, that do not govern too much and most importantly, do not stifle the market. The conflation of law faculties with those of political economy, exemplified in Adam Smith and Jeremy Bentham, is called upon to highlight that one "could not think of political economy, that is to say, the freedom of the market, without at the same time addressing the problem of public law, namely that of limiting the power of public authorities".⁶⁶ Acknowledging the problematic of liberal rule existing between the institution of civil society and the regulation of 'natural freedom' of the life of society, Dillon and Reid recognise positive law as the supplement of natural, and governance as filling the spaces that escaped the legislative.⁶⁷ The positivist rejection of natural law, took the edge from rights claims as a protection against state incursion. Law was not to challenge state power, but to reproduce it. This self-regulation faced a huge hurdle in the twentieth century, as the wars, humanitarian disasters, and crises, culminated in the second world war and the unimaginable horrors of the holocaust. This over-governing prompted a re-evaluation of overarching ideals to hope for.

⁶⁶ Foucault, *Birth of Biopolitics*, p.38, and for discussion of the market both as a site of nature as well as a site of truth, see pp.27-47

⁶⁷ Dillon and Reid, *The Liberal Way of War* pp.18-19

2.2. Writing Rights

An ever-expanding field of study has been flourishing around the question of human rights, particularly in relation to humanitarianism, in the wake of the Cold War. Central 'turning-points' have been identified as the global legal framework in the Universal Declaration, the political significance that was gained in the 1970s with the rise of activist and peace-keeping NGO's, as well as the incorporation of rights into questions of foreign policy. In the sphere of international relations, a question that has pervaded studies relates to the tension at the heart of the post second world war order, between the principle of non-intervention enshrined in the UN Charter and the pursuit of universal rights to protect the persecuted and the stateless. However, only some sovereignties are rendered contingent in the provision of human rights protection. In the drafting of what would become the Universal Declaration of Human Right and the subsequent Covenants, the leading powers were fearful of becoming hamstrung through implementation measures in a broad conception of 'rights'. The ability of a state to act in the name of human right rests upon a discursive formation liberty, where 'freedom' is understood as the negative protection of the individual: the right to self-determination has become problematised in Third World spaces, without reflection as to the retaining implications of colonial rule, the right to autonomy in non-intervention then conditional upon a 'successful' and 'human' sovereignty. The overarching contemporary understanding of rights as the negative political and civil rights of the individual conceals a history of contestation in what constitutes a dignified human life, what must be assured and protected through a rights framework: "liberal-democratic, socialist, and postcolonial human rights norms competed in the international arena, and yet each claimed for itself moral universalism".¹

As the ideological struggle of the Cold War seeped into every facet of UN groundwork, the differing emphases that had been pursued in drafting a global legal framework of rights were gradually hierachised into three 'generations': positive, negative, and collective. These three seemingly distinct articulations have been placed in competition, as championing competing articulations of the 'human': the privileging of the protection of the individual against the repressive state has gradually characterised collective and positive rights as a pathway to tyranny in the repression of individual liberty. The monopolising of freedom naturalises the problematising of *some* sovereign spaces as abusers presupposes a subject of victimhood and of saviour, thus legitimising external intervention as humanitarian. In order to examine the turn to a conscious human rights foreign policy across the 1970s in the US, it is necessary to explore the Roosevelt-driven push toward economic and social rights throughout the 1930s and 1940s, as well as the international project to institutionalise human rights as assurance of order in the aftermath of the second world war.

One must be wary of the construction of a continuous, progressive path of human rights

¹ Stefan-Ludwig Hoffman, 'Introduction: Genealogies of Human Rights' in *Human Rights in the Twentieth Century*, (ed.) Hoffman (Cambridge: Cambridge University Press, 2013) pp.16-17

from antiquity to natural law to revolutions, through to a post-WWII humanitarian recoil at the horrors of the Holocaust, finally arriving at the post-Cold War triumphant universalism. The recognition of what were once harmonious strains coming into conflict is telling in the contingent assertion of dominance. Conversely, where Samuel Moyn suggests the 1970s as the emergence of human rights as we know them today, positing them as the 'last utopia' erected upon the shattered dreams of universalism and community rights, this discontinuity can also offer another interpretation. Moyn's pinpointing of this decade places prominence on the situation of the Third World and the "end of formal colonialism", posited as the most significant shift toward the utopic rights as "empire was foreclosed, yet romantic hopes for decolonisation were also smashed and the era of 'failed states' was opening²". There is an inevitability implicit in this reading: that the de-colonial movement was inevitably heading toward the phase of failed states and a failed universalism. The labelling of state failure, the strategies of 'development' and the punitive measures that are implemented in the face of (some) abuses, are arrived at partly through consideration of human rights norms. In the foreclosure of alternative articulations to the negative and individual rights against the state, the legitimacy of the neoliberal international order is sustained and (re)produced. In order to disrupt this monopoly, one must consider the possibilities discussed and the perspectives present in the establishment of the post-war order, and the skirmish to define the rights that constitute humanity - or a well-lived, peaceful, free life.

The Price of Pursuing Happiness: Four Freedoms and the Second Bill

Before the US entrance into the Second World War, Roosevelt famously proclaimed four fundamental freedoms that should be enjoyed by all; these goals would play a large role in the rhetoric of Allied war aims in their military and moral victory over fascism, and continue to pervade discussions of international (and human) peace and security. Indeed, the entrance to the opening of the founding conference of the UN in San Francisco in 1945 was adorned with four golden pillars serving as a bold (and, one would imagine, gawdy) reminder of these foundations. The fundamental quartet included freedom of speech, freedom of religion, freedom from want, and freedom from fear. Shifting from the isolationism that had dominated after the first world war, manifest in the rejection of the Treaty of Versailles and thus the failure to join the League of Nations, the administration began planning for post-war reconstruction prior to engagement, envisioning an international peace ensured through economic liberalisation and collective security.³ The threat perception of the global rise of totalitarianism was most pronounced in 1940 and 1941, a worldview pointedly articulated by Roosevelt in a radio broadcast delivered on 29 December 1940. Drawing upon Lincoln's famous assertion that American society could not endure in "a world half slave and half free", Roosevelt argued that the wars were of utmost importance as "the Axis proclaims that there can be no ultimate peace between their

² Samuel Moyn, *Human Rights and the Uses of History* (London: Verso, 2014) pp.82-83

³ Kirsten Sellars, *The Rise and Rise of Human Rights* (Gloucestershire: Sutton Publishing, 2002) p.xi

philosophy — the philosophy of government — and our philosophy of government".⁴ A call to arms to support Britain in their fight against the Axis, Roosevelt posed the US as "the great arsenal of democracy". Any claims to abstraction or isolation were rejected by Roosevelt, hemispherical security was directly threatened by this existential project of domination. Not only had airpower negated the previous buffer of distance, but the conquest of European nations by Nazi Germany - a case of "modern slavery" - had been prefaced upon a restoration of order, which Roosevelt warned could be mobilised in South America in claiming a liberating force from "aggression by the US". Repeatedly stressing the Axis as a "program aimed at world control", Roosevelt claimed that "never before since Jamestown and Plymouth Rock has our American civilization been in such danger as now": the US was posed as a bastion of freedom and democracy.⁵

These themes were consolidated in the State of the Union Address of 1941, as Roosevelt intertwined the US (and democratic society generally) with freedom, civilisation, peace, and the fulfilment of a universal human nature. Joining the war was necessary for peace: belligerence occurred from the democratic side only when necessary to defend these fundamental freedoms and values. In a stirring conclusion envisioning victory through unity and resolve, Roosevelt declared that "freedom means the supremacy of human rights everywhere. Our support goes to those who struggle to gain those rights and keep them".⁶ Upon entering the war, the fledgling and ambiguous concept of human rights was pinned to the Allied cause and to the provision of a global peace. The State of the Union Address of 1944 envisioned a peace that would be brokered through an all-encompassing notion of security: "And that means not only physical security which provides safety from attacks by aggressors. It means also economic security, social security, moral security—in a family of Nations". The domestic New Deal articulation had in Roosevelt's view achieved a realisation of economic rights, and "all of these rights spell security".⁷ National security, and the assurance of peace in the world, was tied to the broadened vision of security as economic rights.

Sprawling from the Great Depression and the corresponding commitments of the 'New Deal', the Roosevelt administration believed that the evolution of the US into a liberal democratic, industrialised capitalist society demanded a reconceptualisation and expansion of the founding liberties. The four freedoms are themselves directed more toward economic and social justice rather than those negative, individual political and civil rights that have come to dominate rights discourse.⁸ Drawing attention to the economic focus of 40s US rights-speak, Barbara Keyes challenges the anachronistic reading of human rights in US foreign policy by charting a discontinuous course from the 1940s to the 1970s, and then the

⁴ Philip Abbot, *Political Thought in America: Conversations and Debates*, 4th ed. (Long Grove: Waveland Press, 2010) p.247

⁵ Franklin D. Roosevelt, 'The Great Arsenal of Democracy' Radio Address, White House (29 December 1940)

⁶ Franklin D. Roosevelt, 'State of the Union Address: "The Four Freedoms"', Washington DC (6 January 1941)

⁷ Franklin D. Roosevelt, 'State of the Union Address 1944', Washington DC (11 January 1944)

⁸ Barbara Keys, *Reclaiming American Virtue: The Human Rights Revolution of the 1970s* (Cambridge: Harvard University Press, 2014) p.16

1990s, where she stresses the contingency of meaning. In providing a pathway for the 'pursuit of happiness', economic issues dominated, as considerations of what it meant to be secure and free in the US had been gravely challenged by the sudden and stark insecurity of the depression: fulfilling the American dream of success was not solely within one's control. Following his nomination for a second term, Roosevelt addressed the Democratic National Convention in 1936 and proposed an expansion on the understanding of 'liberty' in a struggle against the "economic tyranny" of big business monopoly. Liberty could not be contained to democratic freedom, if a decent standard of living could not be assured, "for too many of us the political equality we once had won was meaningless in the face of economic inequality".⁹ Preparing for the election race of his second term, the president argued that the government of a "modern civilization", an industrialised capitalist democracy, had obligations to citizens in ensuring the security of work and a dignified life, deriding claims of overstretch as a minority protecting private business interests: Roosevelt outlined a project of economic security that would be developed across his presidency. To supplement the political bill of rights, which had been insufficient in their protection in the context of industrialised markets, in 1944 Roosevelt proposed a second, economic bill of rights, and encouraged Congress to push this through. In fact, the Supreme Court had been moving toward the validation of these economic and social rights constitutionally. The Johnson administration pursued a set of domestic economic reforms in the creation of a Great Society, otherwise known as the War on Poverty, which attempted to institute positive rights as a means to reduce poverty and socio-economic inequality.¹⁰ Progress on the economic bill of rights - and the institutionalisation of economic security - was curtailed after Nixon's appointment in 1969, and by 1975 "the whole idea of minimum welfare guarantees had become implausible".¹¹

In the maturing of the country from its revolutionary birth, Roosevelt claimed that as the nation evolves so must the obligations of the state. The proposal of a second bill of rights to supplement the original, is a recognition of a changed security-scape beyond restraining oppressive power. As highlighted in legal scholar Sunstein's work, the administration believed "unregulated capitalism posed the most palpable internal threat", recognising the care necessary in fostering a positive relationship between the economic system of capitalism within a liberal democratic politic.¹² Related to the establishment of

⁹ Franklin D. Roosevelt, 'A Rendezvous with Destiny', Speech before the 1936 Democratic National Convention, Philadelphia, Pennsylvania (27 June 1936)

¹⁰ See Randall B. Woods, *Prisoners of Hope: Lyndon B. Johnson, the Great Society and the Limits of Liberalism* (New York: Basic Books, 2016); It is important to note, the domestic orientation of US human rights discourse in the Johnson era was not only focused upon economic equality issues, but also in the president's pushing forward of Kennedy's proposed legislation, signing the Civil Rights Act in 1964.

¹¹ Cass Sustein quoted in Daniel J. Whelen, *Indivisible Rights: A History* (Philadelphia: University of Pennsylvania Press, 2010) p.24. Whelen looks at the domestic postwar planning as an antecedent of the Universal Declaration. For an exploration of the plight of economic and social rights, including the establishment of National Resources Planning Board, see pp.24-30

¹² Cass Sunstein, *The Second Bill of Rights: FDR's Unfinished Revolution and Why we Need it More Than Ever* (New York: Basic Books, 2004)

order in the post-war period, and referencing the need to win the peace, the president laid out a substantial plan of far-reaching economic rights which implied the increased government intervention at the expense of coveted individual liberties:

"We cannot be content, no matter how high that general standard of living may be, if some fraction of our people — whether it be one-third or one-fifth or one-tenth — is ill-fed, ill-clothed, ill-housed, and insecure [...] We have accepted, so to speak, a second Bill of Rights under which a new basis of security and prosperity can be established for all — regardless of station, race, or creed".¹³

Throughout the war effort, the notion of human rights was invoked by the Roosevelt administration (even in the face of hypocritical abuses), as a promise for an alternative post-war era that would be worth the financial, moral, and human cost.¹⁴ However, international human rights discourse and the question of self-determination was a point of contention between the three major actors of the Allied forces, while domestically the US was confronted by an isolationist Congress. Churchill's defence of the British Empire is well known, and the inclusion of the goal to "promote respect for human rights and fundamental freedoms" in the initial draft of the UN Charter was pushed by the US delegation at the Dumbarton Oaks meeting, and this rather vague statement gained the tepid agreement of the British and Soviet participants.¹⁵ In the immediate post-war period, the drafting of an international Bill of Rights became a fixture of foreign relations, and the US delegation headed by Eleanor Roosevelt. However, Cold War tensions were quickly felt, and ideological considerations bore greater weight in unearthing the universal character of 'man'.

An Economic Consensus

This vision of a principled new world briefly ignited a united front, but this was quickly tempered by the Cold War. In the popular imaginary of human rights triumphalism in the immediate post-Cold War, the broad spectrum of rights in both the national and international perspective have been obscured. The political and civil rights that had formed the US bread-and-butter as the revolutionary trailblazer, and which later dominated their liberal-democratic-Western-hegemon stance, were at that point on the back-burner to economic and social. However, the vision of economic reconstruction that was implemented laid the groundwork for the association of 'freedom' with capitalism, and the gradual disassociation of social and economic issues from 'rights' which rather focused upon civil and political rights of the individual as justice. On the post-war international stage, the US took the helm in the creation of a stable world economy, which would fundamentally constrict imaginative projects of social and economic rights. The US had vital economic

¹³ Roosevelt, 'State of the Union 1944'

¹⁴ I am not embarking upon an analysis of the hypocritical use of human rights language of the US, that has constituted another strain of the American exceptionalism idea, however it is important to note that Roosevelt also authorised the internment of Japanese Americans while waxing lyrical about the necessity of human rights.

¹⁵ Keys, *Reclaiming American Virtue* pp.18-19

interests in configuring a stable global economy that was structured around market-oriented states, and a consensus arose across the US, Western Europe, and Japan in the benefits of a liberal world economy that would place prominence upon free trade and the limiting of protectionism (which was seen as a major factor in the outbreak of the conflict). It is important to note that this consensus did also include a Keynesian notion of governmental regulation of the domestic economy in the implementation of social welfare, until the ascendance in the 1980s of the neoliberal paradigm, which will be developed in further detail in the following chapter in relation to development.

The Bretton Woods conference in 1944, officially known as the United Nations Monetary and Financial conference, was a meeting of delegates from forty-four nations, convened to establish a consensus on the financial order at the conclusion of the war: led by the US and the UK, this resulted in the founding of two international financial institutions which would facilitate loans and stabilise currency fluctuations, the International Monetary Fund (IMF) and what would become known as the World Bank.¹⁶ In the closing address delivered by Henry Morgenthau - US Secretary of the Treasury and Chairman of the conference - he praised the progress made in finding solutions to the 'economic evils' that had precipitated war, announcing the death of extreme economic nationalism by the recognition that "today the only enlightened form of national self-interest lies in international accord".¹⁷ However in this international accord, the authority of member countries were differentially assigned, as Bretton Woods institutionalised a system of weighted votes in accordance with contributions; as the US was (and is) the largest contributing member, this translated into a relative total power.¹⁸ While the dangers of nationalism were highlighted, the interests of liberal democratic nations are held as mutually beneficial, lending immense international power to the voices of the largest economic power; whose voice is included in this 'international accord'?

This negotiation between the relative power and autonomy of the nation state, within an international accord, does not address the fundamentally unequal sovereign state status. The promotion of human rights as a normative concept in international relations, that went beyond nation-state entities to embrace the entirety of humanity, stood - and stands - in stark contrast to the norms of state sovereignty. However, autonomy of action in the domestic sphere free from external influence has never been universal. Political theorist Charles Beitz notes the tensions of state/universal in the characterisation of human rights practice, as founded in two distinguishable premises - that universal human rights protect the dignity of all human beings, and that the protection of human rights enables friendly relations among nations. Based upon a (largely implicit) notion that countries who commit

¹⁶ This is discussed further in Chapter 3.3

¹⁷ Henry Morgenthau, 'Closing Remarks' in Department of State (ed.) *United Nations Monetary and Financial Conference: Bretton Woods, Final act and related documents, New Hampshire, July 1 to July 22, 1944* (Washington: United States Government Printing Office, 1944) p.121
<https://www.cvce.eu/content/publication/2003/12/12/b88b1fe7-8fec-4da6-ae22-fa33edd08ab6/publishable_en.pdf>

¹⁸ Manokha, *Human Rights Enforcement*, pp.106-107

gross violations will disrupt international security, Beitz notes these two conditions concern different considerations and thus can yield diverging solutions: this tension exists "between the aim of protecting basic individual interests and that of protecting international peace and stability".¹⁹ This can be pushed further, in that the peace envisioned is reflected in the rights ingrained.

The attempt to establish a post-war order was simultaneously structured around these competing notions: while attempting to erect a framework of transnational, universal human rights, there was an increasing recognition of the importance of sovereignty in the wake of new states, new borders, and the process of decolonisation.²⁰ The extent and the nature of the clash said to exist between these principles is dependent upon the translation of the rights that constitute 'human dignity'. Pursuing sovereignty as an independent nation was portrayed as the only guarantee of rights: the assertion of group rights in postcolonial states interpreted national self-determination as a human right.²¹ The UN Charter contained a recognition of the principle of self-determination as necessary for peaceful, friendly relations among nations: self-determination occupied a central place in the post-war vision of a UN that pushed the process of decolonisation. Investigating imperialism in the construction of international law, Antony Anghie argues that these simultaneous processes, where the emergence of independent Third World states that ran alongside the constitution of a normative framework of human rights law, necessarily "conditioned the character of that sovereignty". These sovereign nations never experienced the sovereign power of the nineteenth century European state, and more importantly, the concept of nationalism and human rights are filtered through the Western notions of the individual, state, and society; therefore, creating the "paradox that Third World sovereignty was exercised through, and shaped by, Western structures".²² This reflection is integral to the study of the development of human rights as universal norms: the equation of freedom to the civil and political rights of the individual against the oppression of the state, has reproduced a particular state form in the liberal democratic tradition, where collective and socio-economic rights are gradually excluded from the lexicon of 'rights'.

From a Bill to a Declaration

In charting the *Rise and Rise of Human Rights*, Kirsten Sellars unearthed a secret paper produced within the State Department in June 1943 which lays out the pros and cons of an international bill of rights from the US perspective. Each of the cons are focused upon the dangers posed to a previously held domestic domain, recognising the difficulties of enforcement without a "juridical basis" as "there is no international sovereignty or true

¹⁹ Charles R. Beitz, *The Idea of Human Rights* (Oxford: Oxford University Press, 2009) p.19-20

²⁰ Hoffmann, 'Genealogies of Human Rights' p.14

²¹ Roland Burke, 'Human Rights and Empire' in *The Routledge History of Western Empires* (ed.) Aldrich, McKenzie (London: Routledge, 2014)

²² Antony Anghie, *Imperialism, Sovereignty and International Law* (Cambridge: Cambridge University Press) p.254

international government to grant or enforce international rights".²³ With the publication of the UN Charter, both the universal framework of rights and the autonomy of the nation state were aims consolidated as central to the post-war reconstruction efforts. While the opening salvo proclaims the commitment "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small", state sovereignty and the principle of non-intervention were laid as the bedrock of international order. Famously, in Article 2, the Charter ensures the "sovereign equality of all its members": "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter".²⁴ The ubiquity of the new rhetorical power of rights, and the universality of this humanity is rendered problematic in the drafting of the very first pages of the founding document, as the preamble of the Charter was composed by the Prime Minister of a racially segregated, commonwealth - soon-to-be-apartheid - state, Jan Smuts of South Africa. The response to apartheid highlights the dual, contrasting tenets of the post-War order - the demand for recognition yet the respect of sovereign status - as the Indian delegates insisted upon minority rights for the Indian population, South Africa became a pariah state.²⁵ As the language of human rights became a popular currency, particularly deployed by the Allies in a revision of second world war, the fear of losing sovereign autonomy loomed large.²⁶

As the UN Charter founded the institution of international peace and security, the Nuremberg principles informed the legal character of the post-war. The trials of Nazi war criminals involved arraigning individual persons - state leaders and higher-ups - for crimes committed against their own peoples as well as in occupied territories, an unprecedented step. The nature of the crimes that were prosecuted had not been articulated in pre-existing international law, leading to the creation of novel legal categories 'crimes against peace', 'war crimes' and 'crimes against humanity'. Humanity was then invoked as a homogenous being, one that had been abused and demanded justice. The arguments of the defence were positivist and state-centric, asserting the infamous "just following orders" argument under the cloak of domestic duty. However, the shield of sovereignty had been removed. Included in the criminal category 'against humanity' is elucidated by Calvocoressi as:

"namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial or religious grounds in the execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated".²⁷

²³ Sellars, *The Rise and Rise of Human Rights*, p.xii

²⁴ United Nations, 'Charter of the United Nations', 1 UNTS XVI (24 October 1945) Preamble, Article 2

²⁵ Hoffman, 'Genealogies of Human Rights'

²⁶ Kirsten Sellars, *The Rise and Rise of Human Rights*, pp.6-7

²⁷ Peter Calvocoressi, *Nuremberg: The Facts, the Law, and the Consequences* (London: Chatto and Windus, 1948) p.57

The culpability of the individual in the defence of 'humanity', regardless of the domestic law, looks toward another rule of law when the internal is found wanting; however, this recourse applies only when directly associated with war. The prosecution carefully defined the parameters of this crime within the framework of international law, as existing alongside offences of aggressive war, set apart from the domestic affairs of states - confining humanitarianism to the external. While the chief American prosecutor railed against the accusation of victor's justice, claiming that "the worldwide scope of the aggressions carried out by these men has left but few real neutrals", the constitution of the court is notable in the amnesty afforded to the Allied powers.²⁸ A direct response to the horrors of the regime, the principles installed as central to the protection of humanity were negative - protection against harm that is perpetrated on the basis of exclusion, although at this point only in association with external belligerence. While human rights rhetoric itself did not in fact play a large role in the war, in contradiction to some retrofitting on behalf of the Allies, the legal response has had a lasting effect on international law.

Inaugural attempts to construct a human rights framework as a cornerstone of international law had initially envisioned an International Bill. The Universal Declaration of Human Rights (initially conceived as a preliminary draft bill) continues to be the central document referred to in international norms of human rights, despite being merely a list of prescriptions (followed through the decades by a number of covenants). The UN Economic and Social Council established the Commission on Human Rights on the 16th of February 1946, with the aim of drafting an international bill. Initially, it was intended to carry the force of international law with institutions overseeing compliance, ensured through the framework of a declaration, a binding covenant, and a corresponding structure for implementation. Support was based mainly in those outside of Cold War politics, and the US and USSR opposed the prospect of such a level of intrusion: the following year, the commission had gained authority to begin with the declaration, leaving the covenant and question of implementation until a later date. The US opposition to a binding agreement at this time was controversial and the question of implementation was much debated: US considerations largely focused upon the implications upon their own sovereignty, as well as their moral standing in the world. Writing to the under Secretary of State Lovett in December 1947, a number of the consultants at San Francisco who bore "some responsibility for the inclusion of the human rights clauses in the Charter" expressed alarm at the possible exclusion of a covenant: "the results will be morally disastrous if the impression goes abroad in the world that this country is indifferent or opposed to an international bill of human rights in the form of a convention giving effect to the intent of the United Nations Charter"²⁹. The building tensions of the Cold War were to be played out

²⁸ Sellars, *The Rise and Rise of Human Rights*, pp.30-31

²⁹ Letter from the Consultants at San Francisco to Secretary of State Lovett, in Folder 501-BD HR /12-1147, National Archives and Records at College Park, Maryland [from hereafter NARA MD], General Records of the Department of State, Record Group 59 [hereafter, RG 59], Box 2187 Declassification NND 760050, File 1945-49 from 501.BD human rights/1-147 to 501.BD Human Rights/9-3047

in these drafting debates, and continued on the UN stage throughout with the veto blockade of the General Assembly.

A memo from Mr. Notter to Dean Rusk in the State Department in the office of United Nations Affairs, is illustrative of the anxieties felt in the drafting of a universal human rights document, and in the role of the United Nations generally in such a task. Notter conveys his apprehension about the promotion of rights and fundamental freedoms, as relating not to the West but to the Soviet Union and colonies, and concludes there will only be slow progress. In order not to discredit the UN, he calls for a tempered approach, and with a laboured metaphor warns that, "the plumbing in this house of man had best be put in well before the house is put up for sale as ready for occupancy".³⁰

The Universality of 'Man'

Fundamental freedoms and rights very quickly became a battleground of the cold war: the drafting sessions of the Universal Declaration produced laborious sessions of debates over every intricacy. As the US was shaping its post-war foreign policy vision, the commission was tasked with reflecting these interest in the UN. President Truman laid out his post-war doctrine to a joint session of Congress in 1947, which committed the US to all free peoples threatened internally or externally by authoritarian forces. Freedom was the language used to counter Soviet expansion. Against the backdrop of the Greek Civil War, the president stressed the obligation to give assistance to democracies, established or fledgling, in the fight for freedom. Invoking the Charter, Truman entwined freedom to international peace and national stability: "this is no more than a frank recognition that totalitarian regimes imposed on free peoples, by direct or indirect aggression, undermine the foundations of international peace and hence the security of the United States", going on to say that "we must assist free peoples to work out their own destinies in their own way".³¹ The discursive capital of 'freedom' is evident throughout. Truman intertwines liberty and peace with democracy under the wing of the US, tying national security to the expanding enjoyment of freedoms fundamental to humanity. Under the auspices of the Cold War, this emphasis upon democracy would wax and wane until a Reaganite rejuvenation, due to the courting of authoritarian regimes hostile to communism: these questionable bedfellows could construct a bulwark against the Soviets and in return, the US would turn a blind eye to abuses of power and tyranny. The 'freedom' which Truman rhetorically returns to, is political freedom, which draws upon discursive signifiers that express explicit connections with the natural rights tradition, turned toward the containment of communism in the post-war reconstruction.³² The tie to the social contract ideas was evoked by Eleanor Roosevelt -

³⁰ Notes from Harley Notter on problem of handling Human rights questions, in Folder 501-BD HR /3-1847, NARA MD, RG 59, Box 2187 Declassification NND 760050, File 1945-49 from 501.BD human rights/1-147 to 501.BD Human Rights/9-3047

³¹ Harry S. Truman, 'Address Before a Joint Session of Congress', Washington DC (12 March 1947)

³² Manokha, *Human Rights Enforcement*, p. 109. Rupert called this liberal anti-communism 'ideological

the leader of the US delegation to the UN on the declaration of principles - as she delivered a keynote address at the Sorbonne University entitled 'The Struggle for Human Rights'. The opening salvo explains her choice of venue as a conscious link of the United Nations project with the French Declaration of the Rights of Man and Citizen. The purpose of the address was evidently to push a very specific conception of human rights, placing the Soviet Union in the crosshairs by indicating "a fundamental difference in the conception of human rights", and claiming an already fixed consensus as "democracy, freedom, human rights have come to have a definite meaning to the people of the world which we must not allow any nation to so change that they are made synonymous with suppression and dictatorship".³³ This constellation then was essentialised and intertwined.

The possibility of compromise is portrayed as treachery, a betrayal of the fundamental freedoms that constitute humanity itself. This monopoly on 'the human' increasingly placed political and civil rights at the forefront of rights-speak, of the individual protection against the state. Roosevelt anecdotally calls upon a conversation with Mr. Vyshinsky (Soviet jurist, politician, and diplomat) over the referent of rights, where he argued that freedom could not be for the individual, as individuals do not exist in a vacuum. This is portrayed as an irreconcilable clash of values: "we here in the United Nations are trying to develop ideals which will be broader in outlook, which will consider first the rights of man, which will consider what makes man more free; not governments, but man".³⁴ In a concise relaying of a few snippets of conversation, Roosevelt simultaneously aligns the US view as that of the UN, and undermines the Soviet position as tyranny. Indeed, throughout the address Roosevelt draws a stark distinction between the Western conception of democracy as individual freedom, and the Soviet brand of authoritarianism, undermining the social and economic rights they champion as a means to exploit their people. The human rights advocacy of Roosevelt reflected official US policy, and her role in the UN commission was informed by two official governmental bodies in Washington, the Subcommittee on Human Rights and the Status of Women and the newly established Human Rights Office of the State Department's Division of International Organisation Affairs, who provided continual analysis, instruction, and the perspective of the US to guide her negotiations.³⁵ While just a few years before the economic and social needs had been at the forefront of peace and security, the American 'free world' version of human rights was placed within a tradition, stretching from the French and American revolutions, that mapped a defined future and retroactively erased alternative pasts. What could and could not be said about the meaning of human rights was thus inextricably tied to the fledgling antagonisms of the Cold War, as 'Man' became an ideological battleground. The sticking point of implementation, of the drafting of a Covenant, reflects the danger of the discourse. Neither the USSR nor the US

cement' binding the postwar economic order. Mark Rupert, *Ideologies of Globalisation: Contending Visions of a New World Order* (London: Routledge, 2000); Aryeh Neier, *The International Human Rights Movement: A History* (Princeton: Princeton University Press, 2012) p.57

³³ Eleanor Roosevelt, 'The Struggle for Human Rights' Address at Sorbonne, Paris (18 September 1948)

³⁴ Eleanor Roosevelt 'The Struggle for Human Rights'

³⁵ Sellars, *The Rise and Rise of Human Rights*, p.17

were prepared to commit to a binding document that could be used by their opponent.

Due to the ambiguity surrounding implementation measures or obligations, the issue of individual petition was a sore spot across both sides of the Cold War divide. Thousands of letters had reached the UN secretariat by 1947, pleading for support against tyranny and injustice, resigned to what Canadian head of the UN Secretariat's Human Rights Division referred to as "probably the most elaborate wastepaper basket ever invented".³⁶ This (in)ability of the individual to bring a human rights case, particularly in the context of Cold War tensions, is exemplified in the report submitted by the National Association for the Advancement of Colored People (NAACP) to be considered by the UN secretariat. Titled 'An Appeal to the World', this document was a petition for support in redressing the human rights violations committed by the US against African-American citizens, with W.E.B Du Bois as one of the central authors. Detailing myriad sins including Jim Crow and lynchings, the report even warned against the establishment of the UN headquarters in the country, claiming that "Most people of the world are more or less colored in skin; their presence at the meetings of the United Nations as participants and as visitors, renders them always liable to insult and to discrimination; because they may be mistaken for Americans of Negro descent".³⁷ Eleanor Roosevelt was one of the most high-profile opponents to consideration of the appeal, even threatening to resign if the US delegation were to introduce this to the floor of the General Assembly, eventually leaving the Soviet counterpart to take up the cause. The continued exclusion of NGO's and private individuals from petitioning the council, or indeed any other body established with the purpose of implementation, was in the interest of established states, including the US. A memorandum of conversation between US Foreign Service officer Walter Kotschnig and Mr. Boyd (from the British Embassy) on December 1949 references a "confidential communication" from the foreign office which expressed apprehension of a US turnaround on the question of individual petitions in the establishment of the implementation machinery of a covenant. Kotschnig notes his allaying of these fears, reporting his assurances that "our position had not changed and that, in our opinion, only complaints should be considered which had been made by governments": further, while the US was "aware of proposals for the establishment of an additional Protocol" they were unlikely to become a party to this.³⁸ If governments alone were able to file petitions, citizens could not bring their own country into the world stage.

The Declaration that was finally adopted by the United Nations in 1948 included positive, negative, and collective incarnations of rights. The first twenty-one articles are negative civil and political rights, which very much read as an extended cut of the French Declaration and

³⁶ Fabian Klose, "Source of Embarrassment": Human Rights, State of Emergency, and the Wars of Decolonization' in *Human Rights in the Twentieth Century*, (ed.) Hoffman (Cambridge: Cambridge University Press, 2013) p.244

³⁷ Sellars, *The Rise and Rise of Human Rights*, p. 20; Carol Anderson, *Eyes off the Prize: The United Nations and the African American Struggle for Human Rights, 1944-1955* (Cambridge: Cambridge University Press, 2003)

³⁸ Implementation of Covenant on Human Rights' Conversation between UK Ambassador Mr. Boyd and Walter Kosching, Memorandum, in Folder UK 501-BD HR / 12-1949, NARA MD, RG 59, Box 2190 from 501 BD Human Rights / 6-149 to 501-BD Narcotics / 3-3147, Entry dec. File 1945-49 nnd760050

the American Bill, as the "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family".³⁹ Articles 22 to 27 encompassed economic and social rights, a radical addition to previous incarnations, including rights to social security, to employment, to rest and leisure, and to education. The final three were intended to tie the declaration together, by placing the individual in relation to society and prohibiting the use of these rights provisions for the disruption of international peace and security, the overarching goal of the United Nations. Analysing the influence of the French Declaration of the Rights of the Man and of the Citizen on the Universal Declaration, Rita Maran explores the debt owed to the French notion of 'universality' (rights only of man and of citizen) which "conversely, France considered uniquely its own, concerned with French values and culture, and not adaptable for international usage".⁴⁰ The importance of the French conception of universality was confirmed by one of the major architects of the Universal Declaration, French jurist Rene Cassin, who in 1972 argued that the French had formulated the modern articulation of humanity: "The Declaration of the Rights of the Man and of the Citizen, the essence of which the French Revolution caused to permeate most other civilized countries, truly marked a new era in the history of humanity".⁴¹ This bounded conception of the universal can be underscored by the ongoing brutal wars of decolonisation that France waged in Indochina and Algeria, that were legitimised through the moralising language of the 'civilising mission'. Indeed Cassin questioned the compatibility of human rights and decolonisation: during the Covenant debates - where self-determination figured heavily - he opposed the equation of human rights with minority rights, and maintained a view that individual rights were preferred over group. His rights philosophy implied a fundamental discord between what he characterised as the cosmopolitan worldview of states such as France and the claims to a self-determination of peoples.⁴² This "new era" of civilisation is constituted through, yet completely elides, the violence of colonial accumulation. As human rights scholar Joseph Slaughter notes, Cassin's statement can be read as benignly acknowledging the "burden" of dissemination of a new concept of man on those society that consider themselves civilized".⁴³ This 'universality' is one of civilisation, predicated on the exclusion of those who must undergo a moral tutelage.

Three Generations of Rights: Implementation and Hierarchisation

Legislating for the practical application of human rights refers to a (possible) failure of a state to uphold these international norms, then calling for remedial or preventive action by

³⁹ United Nations, 'Charter', Preamble

⁴⁰ Rita Maran, *Torture: The Role of Ideology in the French-Algerian War* (New York: Praeger, 1989) p.142

⁴¹ Maran, *Torture*, p.142

⁴² Glenda Sluga, 'Rene Cassin: *Les droits de l'homme* and the Universality of Human Rights, 1945-1966' in *Human Rights in the Twentieth Century*, (ed.) Hoffman (Cambridge: Cambridge University Press, 2013) pp.118-119

⁴³ Joseph Slaughter, 'Narration in International Human Rights Law' in *CLCWeb: Comparative Literature and Culture* Vol. 9 No. 1 (2007) p.6

the government or external actors. As explicated by Beitz, "the question of 'implementation' is about how 'international concern' is to be expressed".⁴⁴ Taking a step backwards, the question of 'international concern' is about what actions or failings should be concerning to the international. If there were to be any bite to the proposed Covenants, there had to be consensus upon what was deemed an infraction. Contemporary articulations of universal human rights, particularly within the framework of the UN, are often described as interrelated, interdependent and indivisible. Just as every person is born free and equal, rights themselves are believed to be of equal importance: whether civil, political, economic, social, cultural, or collective, all rights are mutually-dependent. It is claimed there can be no hierarchical structure, as all of these rights are necessary for the dignity and freedom of human beings.⁴⁵ The language of indivisibility has been complicated by the notion of 'generations' of rights that has often been used to categorise the three varieties of rights in academic literature on the subject, introduced in 1979 by the Czech jurist Karel Vasak. Conceptualised by Vasak as following the three ideals of the French revolution: the first generation includes negative political and civil rights at the level of the individual (liberty); the second are economic, social, and cultural rights (equality); and the third are the collective and developmental - or solidarity - rights (fraternity). Generational implies a divide, a succession, and a hierarchy where each generation relies upon the previous for their existence.⁴⁶ These conceptualisations of rights - both as generational and as indivisible - conceal the historical contestations and intersections that have existed, and continue to exist, between these different imaginings of rights from the liberal-democratic, socialist, and post-colonial perspectives. As noted, civil and political rights are placed in the revolutionary traditions of Western democracy. In the cold war context, economic and social rights increasingly came to represent the challenge to Western individual freedom posed by communism, representing a series of obligations toward the citizens to be fulfilled by the state. The second generation is perceived as rising from the workers' movements of the 19th century, and of course the writings of Marx and Engels. The deepening struggle between these two configurations, and the attribution of differing intellectual traditions, is evident in the drafting of the Covenant - the binding document that was supposed to follow the principles laid out in the Declaration - and its eventual split. This drafting period would drag on until 1954, highlighting the difficulty of finding a suitable implementation strategy that would be accepted by all parties, and resulting in the production of two separate covenants.

The American enthusiasm for the human rights project had waned in the period between the adoption of the UN Charter and the covenant struggles. While initially an opportunity to

⁴⁴ Beitz, *The Idea of Human Rights*, pp.31-32

⁴⁵ Daniel Whelan, *Indivisible Human Rights* (Philadelphia: University of Pennsylvania Press, 2010). Whelan has conducted a study a historical study of the 'rhetoric of indivisibility' in the development and expansion of human rights doctrine.

⁴⁶ See Christian Tomuschat, *Human Rights: Between Idealism and Realism* 3rd Ed. (Oxford: Oxford University Press, 2014) Chapter 8. A colour scheme has also been introduced to refer to the rights - blue, red, and green. Weston has argued that the generational argument does not necessarily introduce a temporal hierarchy: Burns H. Weston, 'Human Rights' in *Human Rights Quarterly* Vol. 6 No. 3 (August 1984) pp.257-283

influence post-war international progress, as the covenant drafting dragged along, it was increasingly seen as a weapon, that could also potentially be used against them, rather than simply a tool. Domestically, Senator John Bricker of Ohio caused much agitation in the early 50s against US human rights entanglements.⁴⁷ Acknowledging domestic difficulties, American delegates were able to break the covenant into two in February 1952. Both covenants were adopted by the General Assembly in 1966, and signed by President Carter in 1977; the International Covenant on Civil and Political Rights was ratified by the US government in 1992 while the International Covenant on Social, Economic, and Cultural Rights to this day has not been ratified by the US. The prior will to address economic and social rights had been grounded in the recognition that the state's obligation cannot be reduced to non-intervention in individual freedom in every manner, assuming individual responsibility and free choice in positive freedoms such as gaining employment or providing health insurance. The consideration of only negative individual freedom does not reflect upon how freedom is differentially experienced, the restraints that are placed upon 'free choice', nor does it take into account how society creates unfreedom. Capitalism is not a natural state, nor the inequalities experienced therein. Eleanor Roosevelt's separation of rights into those of the individual, and those of governments, reflects the simplistic totems of these competing visions.

Beyond the traditionally positive and negative articulations of liberty manifest in the dichotomous superpowers, the third aspect of rights discourse emerged from the process of decolonisation, calling out from the Third World. What are commonly referred to as 'developing states' were gaining a larger voice in the halls of the UN, and underscoring the postcolonial perspective was the issue of a right to self-determination, an open sore for the former colonial powers. The influential critical history of Samuel Moyn asserts that human rights as we know them today emerged in the 1970s, after a brief spark in the 1940s, partly based upon the relatively muted interest in human rights across the 1950s and 60s and his assertion that rights must be global and not associated with state sovereignty, therefore discounting the struggles of self-determination as a fight for human rights.⁴⁸ By arguing that the lack of a "right to self-determination in the Universal Declaration spurred postcolonial leaders to fight on the terrain of sovereignty rights", this distinction reproduces the dominant narrative of human rights. While self-determination was used as a territorial defence in the suppression of minority rights, this articulation does not account for the differentials in sovereignty in which human rights could be deployed as a tool. The use of human rights discourse by postcolonial states in the struggle for economic and political self-determination cannot be discord. The 'right' to self-determination was a particularly embittered struggle across the defining documents of the international, and the stakes were high, as "these debates, every bit as fierce as those of the UDHR itself, were inseparable from broader politic contests over postcolonial social, political and economic organization,

⁴⁷ Sellars, *The Rise and Rise of Human Rights*, pp.81-85

⁴⁸ Samuel Moyn, *The Last Utopia*

the nature of state sovereignty, and the future of European (and informal U.S.) empire".⁴⁹ To grapple with the discontinuities with the contemporary articulation is to recognise the subjugation of alternative economic, collective, political imaginings of 'rights'.

The right to self-determination was asserted as Article 1 in both covenants. Such a right recognises the integrity of a peoples (collective) to govern themselves according to their own principles, so long as these do not contravene human rights proper - or indeed any other principle of international law. This autonomy was not only political but also extended to the resources of a nation, much to the chagrin of the US delegates.⁵⁰ Claiming the right to self-determination, the UN roll call has expanded from 51 member states in its founding to 193 today. So-called third generation rights refer broadly to the right to development, the right to peace, and the right to a healthy and clean environment. As such, these are all collective rights which encompass a distinctly transnational scope. While I will embellish upon the 'development policy' of the US in the following chapter, it is important to note at this point the postcolonial drive to a rights discourse beyond that of the individual, a drive toward national self-determination within an international which recognised the hierarchies and deficiencies engrained in colonialism and continuing in post-. The central texts of this transnational perspective are the African Charter on Human and People's Rights, adopted in 1979 by the Organisation of African Unity, and the ASEAN (Association of Southeast Asian Nations) Human Rights Declaration of 2013.⁵¹ The African Charter detailed development as a right that must be assured by the state, but also that entailed individual duties for the good of the collective: thus, both collective and individual interests are recognised within the right to development. The preamble immediately addresses the interdependence of the two categories of rights, insofar as "the satisfaction of economic, social, and cultural rights is a guarantee for the enjoyment of civil and political rights"; further, in achieving this wholistic freedom, the Charter recognised the myriad oppressions that must be tackled before any true development can occur:

⁴⁹ Bradley R. Simpson, 'Self-determination, Human Rights, and the End of Empire in the 1970s' in *Humanity* (12 June 2014) pp.239-260

⁵⁰ Sellars, *The Rise and Rise of Human Rights*, p. 80. The first article of both Covenants reads: " Article 1 (1) All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. (2) All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence. (3) The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations. See United Nations General Assembly, 'International Covenant on Civil and Political Rights', United Nations, Treaty Series, vol. 999 (16 December 1966) p. 171; United Nations General Assembly, 'International Covenant on Economic, Social and Cultural Rights', United Nations, Treaty Series, vol. 993 (16 December 1966) p.3

⁵¹ African (Banjul) Charter on Human and Peoples' Rights (OAU Doc. CAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986 (27 June 1981) available at <http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf>; ASEAN Human Rights Declaration and Phnom Penh Statement on the Adoption of the ASEAN Human Rights Declaration' (Jakarta: ASEAN Secretariat, February 2013) available at <http://www.asean.org/storage/images/ASEAN_RTK_2014/6_AHRD_Booklet.pdf>

"Conscious of their duty to achieve the total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence, and undertaking to eliminate colonialism, neo-colonialists, apartheid, Zionism, and to dismantle aggressive foreign military bases and all forms of discrimination, particularly those based on race, ethnic group, color, sex, language, religion, or political opinions".⁵² Many newly independent states had to address the systemic, pressing problems of economic underdevelopment alongside the dangers of dependency. These structural inequalities existing within the international system have been recognised by post-colonial voices as hurdles that must be overcome before any tangible progress can be made. Within the Charter, development is tied to: the self-determination of peoples to found their own political status and social and economic programme (Article 20); economic, social, and cultural development that reflects their "freedom and identity and in the equal enjoyment of the common heritage of mankind" (Article 22); and the maintenance of a "general satisfactory environment" (Article 24). This is a group, or collective, right, that focuses upon the progression of society as opposed to the individual, to strengthen the 'peoples' ability to provide the fundamental freedoms and equal opportunities that should be afforded within human rights. Article 29 details the duties of the individual duty toward the advancement of the society, and thus the wider continental, transnational, and international landscapes. Along with the right to peace and a safe environment - interdependent and intertwined - the right to development cannot be enjoyed by a sole individual, nor can one person or group be held accountable for the achievement of these aims.

Both the Soviet and postcolonial perspectives challenged the individualistic focus of the West on political and civil rights, as too narrow and exclusionary to any alternative economic structures. There is a different imagining of what the fundamental freedoms of humanity entails in each, whether or not freedom from governmental intervention is adequate. While all of legal documents essentially see the government as the guarantor of security, as governments are the entities who must be party to covenants and treaties, as well as in sending reports and fulfilling obligations of oversight, there is a disjunction in imaginings of what rights can provide, and what the invocation of 'right' means. What aspects of humanity demand legal requirements for their fulfilment and enjoyment? If one can legislate against repressive forces, is there no way of assessing economic repression? That is, welfare systems that systematically fail those in need through exclusionary bureaucracy, aggressive shaming, and opacity. How are the exploitation of resources against national, regional, or local borders considered, a pertinent example being the ravaging of indigenous land? The pitfalls and complexities of enforcing rights other than political and civil, in particular the problems of state support in realising socio-economic rights – as opposed to limitations of the state – has been the subject of many studies, as well as those pushing for a more radical rethinking of rights mechanisms beyond the argument of 'practical' limitations.⁵³ While there are undoubtedly complexities involved in the legislation

⁵² African (Banjul) Charter, Preamble

⁵³ Neier, *The International Human Rights Movement*, Chapter 3; Tomuschat, *Human Rights: Between Idealism*

and enforcement of any rights framework that finds its legitimacy in 'being human', one must question why certain rights have become the natural norm, as 'traditional', rational, enforceable, and possible. From this contestation, the idea of 'generations' has been retroactively fitted. The subject of (international) law is constituted by the law: as Douzinas asserts, this subjectification refers to a dual concept of power which "appoints the subject to his place and endows him with certain rights and protections in return for his obedience".⁵⁴ In the recognition of the self-determination of new entities, Anne Orford argues international law creates new (governable) subjects who must function within the confines of these expectations, the character expected from overarching framework. Orford pinpoints todays international era of free trade and liberal democracy as the restraints imposed upon those nations wishing to participate in the international community.⁵⁵ When the US took up a renewed interest in the 1970s with human rights on the international plane, a limited roster of rights were instituted as minimum standards in the reception of aid.

and Realism; Upendra Bax, *The Future of Human Rights*, 3rd Ed (New Dehli: Oxford University Press, 2002); Amartya Sen, *The Idea of Justice* (Cambridge: Belknap Press of Harvard University Press, 2009)

⁵⁴ Costas Douzinas, *End of Human Rights* pp.224-225

⁵⁵ Anne Orford, *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law* (Cambridge: Cambridge University Press, 2003) p.28

2.3 Securing the Individual: "A Call for US Leadership"

"America did not invent human rights. In a very real sense, it is the other way round. Human rights invented America"

- President Carter, 'Farewell Address, 1981

"The argument proposes that the struggle of our new millennium will be one between the ongoing imperative of securing the well-being of our present ethnoclass (i.e., Western bourgeois) conception of the human, Man, which overrepresents itself as if it were the human itself, and that of securing the well-being, and therefore the full cognitive and behavioural autonomy of the human species itself/ourselves"

- Sylvia Wynter, 'Unsettling the Coloniality of Being/Power/Truth/Freedom', 2003

Recent scholarship has borne witness to an enhanced spotlight placed on the 1970s. A decade of profound international upheaval in the context of globalisation, these analyses have contributed to an expanding tableau, in which the prominence of universal, international human rights norms are linked to detente, Vietnam, the growth of global capital, mechanisms of globalisation, an emerging Holocaust awareness, development policy, a greater flow of information through mass media, as well as the growing importance of NGOs such as Amnesty International. These studies have problematised the numerous possible catalysts for why human rights gained a more prominent place in the world scene as well as the periodisation of this decade¹. The interconnections between disparate groups of actors and the means through which they pursued human rights awareness has produced a burgeoning literature; however, the kind of rights that were projected on to the world stage, and the movements thereby silenced, has remained relatively unproblematised. The individual was increasingly inserted at the centre of human rights, as the negative protection of the individual against the state. This invocation of human rights functions as a marker of victimhood, as Illan Rua Wall asserts in his analysis of the constituent power in human rights: the dominant discourse perpetuates the identities of victim, oppressor, and rescuer, where the agents of human rights are seen as politically neutral and fundamentally 'good'². The agency of the victim is thus completely removed from the picture.

A 'new historiography' of human rights, most notably associated with Samuel Moyn, aims to dispel a teleological narratives of humanist progress grounded in Enlightenment ideals. Moyn has pinpointed 1977 as the breakthrough of human rights as we know them today, the negative civil and political rights of the individual, the 'last utopia' erected from shattered alternative internationalisms. The argument is based on the emergence of rights in their apparent rootlessness, as an appeal to humanity-at-large, discounting self-determination as a quest for a 'state's rights'. Decolonisation dreams are held as distinct from a human rights utopic ideal, while Moyn places prominence on the situation of the

¹ Barbara J. Keys, *Reclaiming American Virtue: The Human Rights Revolution of the 1970s* (Cambridge: Harvard University Press, 2014); Alkira Irivie, Petra Goedde, William I. Hitchcock (ed.) *The 'Long 1970s': Human Rights, East-West Détente and Transnational Relations* (London: Routledge, 2016); Duco Hellema, *The Global 1970s: Radicalism, Reform, and Crisis* (Oxon: Routledge, 2019)

² Illan Rua Wall, *Human Rights and Constituent Power: Without Model or Warranty* (Oxon: Routledge, 2012)

Third World and the "end of formal colonialism" in his 1970s periodisation, he notes that "empire was foreclosed, yet romantic hopes for decolonisation were also smashed and the era of 'failed states' was opening".³ This seemingly deterritorialised framework is also stressed by the historian Stefan-Ludwig Hoffmann, where he pinpoints the contemporary rights regime understood as "individual, pre-state and concerned primarily with distant suffering" as coalescing in the "global nineties". Notwithstanding the question of who has failed the failed state, I do not quibble with the importance of the 1970s, and indeed the 90s in what I have called the 'human rights regime of truth'. However, I do question whether a Western-centric rights regime is reified in these distinctions and categorisations.

Why was human rights taken up with such fervour in the 70s in the US, to what extent were these in dialogue, or dispute, with calls to self-determination? Let us reframe the temporalising of the 'breakthrough'. Asking why human rights came to the fore in the 1970s, or indeed the 1990s, from a period of intense contestation in their meaning and a language of rights adopted by 'Third Worldism', the human rights scholar Joseph Slaughter has noted that:

"we also need to better apprehend how the supranationalization of individual rights became a powerful neoimperial instrument for deforming the right to self-determination and undermining Third world sovereignty, as well as the role that the abandonment of the more sweeping aspirations of self-determination by many newly independent post-colonial states played in the rollback".⁴

The individual has increasingly been inserted at the centre of human rights, as the negative protection of the individual against the excesses of state power. The sheer veil of the deterritorialised universal, enables a collective fiction, an aversion of the eyes to the multiple boundaries that are drawn and redrawn. The deeply territorial borders of states cast as outlaws are rendered porous to the saviours, able to cross in defence of freedom.

Against the timescale of the 'last utopia', legal scholar Antony Anghie has noted another goal motivating a large proportion of the growing number of nation states, that is the 'utopia of development'.⁵ This utopic ideal has largely been excluded from the 'new historiography' as distinct from rights. In chapter three, we shall delve into the depths of development and post-colonial self-determination struggles, however this brief signpost is intended as a reminder not to repeat the exclusion.

The UN Declaration on the Right to Development was adopted in 1986, 38 years after the Declaration of Universal Human Rights, but its entrance into larger rights discourse and practice was shaped by debates and discussions of the institutionalisation of human rights policy throughout the 1970s. It is beyond the scope of this dissertation to investigate the multiple and varied sources of human rights thinking across the global landscape, as the focus is specifically upon the US human rights regime, but it will be noted how these

³ Samuel Moyn, *Human Rights and the Uses of History* (London: Verso, 2014) pp.82-83

⁴ Joseph Slaughter, 'Hijacking Human Rights: Neoliberalism, The New Historiography, and the End of the Third World' in *Human Rights Quarterly* Vol. 40 No. 4 (November 2018) p. 761

⁵ Antony Anghie, 'Whose Utopia?: Human Rights, Development, and the Third World' in *Que Parle* Vol. 22 No. 1 Special Issue: Human Rights between Past and Future (Fall/Winter 2013) pp.63-80

heterogeneous actors produced a relatively homogenous human rights focus: the negative civil and political rights of the individual against repressive governments. This section will explore why human rights attained a prominent place within US foreign policy concerns, how these were understood, and therefore, what policies were put in place to address abuses.

From the 1950s onward, there had been a dearth of interest in the issue of human rights as a matter of American foreign policy. White supremacy played a large role in this distancing, as segregationist Southerners perceived UN oversight as a potential threat to the racist structures of segregation and Jim Crow. As domestic racism was also a stick with which the USSR could flog the US, as exposing the hypocrisy of the leader of the 'free world', a supra-state rights enforcement would pose a Cold War threat. The universalism that took flight in the 1970s was preceded by a period of Cold War competition, waged in the corridors and chambers of the UN. As the number of newly sovereign member states of the UN began to swell with the progressing decolonisation movement, the UN became a platform through which so-called Third World states could champion notions of collective rights and attempt to forge a path of self-determination through the discourse of human rights. Conventional wisdom has now separated civil and political rights from social, economic, and cultural, the former being understood as easier to implement as well as being more fundamentally related to freedom, whereas social and economic rights are packaged as a matter of 'needs' and even derided as open to the manipulations of tyranny and providing a mask for sovereign abuse. However, these new states pushed beyond the poor petition protocols that were initially put in place during the declaration drafting, and in 1967 the commission on human rights accepted a system to consider questions relating to racial discrimination, segregation, and apartheid "with particular reference to colonial and other dependent countries and territories", and allowed the "thorough study of situations which reveal a consistent pattern of violations of human rights".⁶ The rise of Amnesty International, from the small organisation in London established in 1961, played a major role in publicising human rights in the public consciousness as an emancipatory discourse, focusing very specifically upon the plight of political prisoners - termed 'prisoners of conscience'. Volunteers sent personal messages of support and published country reports, which focused upon the civil and political rights of the individual, whereby "individual suffering mattered - not the structures of power that produced it".⁷ To retain an apolitical stance, the volunteers were organised in networks of three in order to represent prisoners in each 'world'. This insistence upon the 'apolitical' in the pursuit of human rights by focusing upon suffering, as well as the practice of individual testimony in establishing victimhood, greatly influenced the

⁶ United Nations Economic and Social Council, *United Nations Economic and Social Council Resolution 1235 (Concerning Questions of the Violation of Human Rights and Fundamental Freedoms, Including Policies of Racial Discrimination ad Segregation and of Apartheid, in All Countries, with Particular Reference to Colonial and Other Dependent Countries and Territories)* XLII, 42 UN ESCOR Supp (No.1) at 17, UN Doc E/4393 (6 June 1967)

⁷ Mark Philip Bradley, *The World Reimagined: Americans and Human Rights in the Twentieth Century* (Cambridge: Cambridge University Press 2016) pp.141-148

US adoption of human rights in their foreign policy making. Beyond the work of NGOs, in the domestic context of the US, the rights discourse had been adopted by activism movements throughout the 1960s, particularly in the context of the civil rights struggle, as well as women's, student, and anti-war groups.

Congress Calls: Human Rights Agenda

In the early 1970s, Congress became a major force for change in the integration of human rights into US foreign policy, steering away from the Nixon-Kissinger brand of *realpolitik*, which favoured the pursuit of a balance of power at all cost to considerations of morality. Indeed, during the confirmation hearings for Secretary of State before the senate in 1973, Kissinger stressed the focus upon specifically US interests and security that should govern their international relations, while designating human rights as a domestic matter. When asked to outline the basic principles guiding US foreign policy through the tricky terrain of human rights and diplomatic necessity, Kissinger concluded that in relations with countries which are "morally offensive", "we should confine relationships with those countries to those that can prove to be in the overwhelming American nation interests. But I do believe that it is dangerous for us to make the domestic policy of countries around the world a direct objective of American foreign policy".⁸ While advocating a restrained relationship as not to disrupt the careful balance of international order, Kissinger maintains that the national interest comes first. This attitude toward the domestic remit of human rights concerns, that US interest must remain the major, decisive concern, had been prevalent in Congressional halls and policy-making circles since the 1950s, with "Brickerism at home and Dullesism in foreign policy".⁹ The Bricker Amendment, which narrowly failed, proposed to limit Presidential treaty-making to curb international oversight and fundamentally to preserve White American supremacy. Pushed by an isolationist agenda, Southern support was bolstered by opposition to the Genocide Convention as well as fears that the UN would encroach upon the racist systems of Jim Crow. Combined with Secretary of State Dulles' position that the promotion of human rights was inextricably tied to a moralistic containment of Soviet-led communism, a compromise was reached wherein the US government would not sign international human rights treaties, which translated into a gradual downgrading of human rights concerns through the Eisenhower, Kennedy, Johnson, and Nixon administrations¹⁰. The war in Vietnam gave lie to the exclusive linking of human

⁸ United States, 'Nomination of Henry A. Kissinger' Hearings, Ninety-Third Congress, First Session, on Nomination of Henry A. Kissinger to be Secretary of State (Washington DC: US Government Printing Office, 1973) p.117 also, p.241 – "The United States stands emphatically for such basic principles as human liberty, individual rights, freedom of movement, and freedom of the person. on the other hand, the protection of basic human rights is a very sensitive aspect of the domestic jurisdiction of the governments with whom the United States has to conduct foreign policy"

⁹ David P. Forsythe, 'Human Rights in U.S. Foreign Policy: Retrospect and Prospect' in *Political Science Quarterly* Vol 105 No. 3 (Autumn 1990) pp.437-439

¹⁰ Francis Boyle, 'The Hypocrisy and Racism Behind the Formulation of U.S. Human Rights Foreign Policy: In Honor of Clyde Ferguson' in *Social Justice* Vol. 16 No. 1 (Spring 1989) pp. 71-93; see also, Elizabeth Gillespie

rights to the security calculations of the Cold War, as domestic unrest and international attention threw the moralistic claims of the US as a leader of liberty into doubt: the brutal and indiscriminate targeting of the land and people of Vietnam could be broadcast in the 'first television war' and the accounts of the veterans compounded the horror. The suffering of the Vietnamese people, in a war that was increasingly viewed as illegitimate, did not stack up with the claims of security against the Soviet threat (nor the liberation of South Vietnam).

The fires of congressional dissent that emerged in the early 1970s had been stoked not only by Vietnam but also the Watergate Scandal; it was feared that the Nixon administration's foreign policy had been too preoccupied by the containment of Communism, that the US had gradually lost its way in the unquestioned support of right wing authoritarian governments and dictators so long as they provided a stalwart against the Soviets. Foreign relations decisions called into question included support of Greece and Chile, as well as intervention in the Dominican Republic and, of course, Vietnam. The costs of Cold War calculations appeared to be mounting, smearing the US image at home and abroad, with the morality of the US project seen to be hanging in the balance. Human rights provided a grammar through which to criticise the foreign policy agenda, and two major strands formed in the Congressional opposition: the Jackson Democrats (referring to Scoop Jackson), who focused upon the human rights records of the USSR, satellite states, and other communist nations, whereas the more liberal-leaning Democrats emphasised the US support of authoritarian governments as smearing US identity and implicating their country in tyrannical rule. Led by Democrat Representative Donald Fraser, a vocal proponent of the second group, congressional debates on the subject of human rights took place within the - normally relatively obscure - Subcommittee on International Organisations and Movements (later becoming the Subcommittee on Human Rights and International Organisations, an indicator of the success of the agitation) of the House Committee on Foreign Affairs.¹¹ The movement toward including human rights concerns created a coalition of sorts across Capitol Hill encompassing those committed to furthering fundamental freedoms abroad, individuals who were interested in cutting expensive foreign aid commitments, and those who wanted to attack the Republican Party.

However, this supposed unity exposed fault-lines in the US self-perception. In the conservative imaginary, human rights continued to be a useful weapon in the fight against communism, as the aim of promoting rights and defeating the communist threat did not conflict but rather reinforce one another, the enemy ideology could be delegitimised through appeals to morality (although it was noted that the US would then be vulnerable to counter-critique). For the liberal branch, where human rights provided an ethical limit to right the excesses that had gradually been exposed, the integrity of the US fight against communism was being fundamentally called into question.¹² They argued that the

McRae, *Mothers of Massive Resistance: White Women and the Politics of White Supremacy* (Oxford: Oxford University Press, 2018) chapter 6 'Jim Crow's International Enemies and Nationwide Allies'.

¹¹ David P. Forsythe, *Human Rights and US Foreign Policy: Congress Reconsidered* (Gainesville: University of Florida Press, 1988) p.1

¹² Kathryn Sikkink, *Mixed Signals: U.S. Human Rights Policy and Latin America*, (London: Cornell University

overarching struggle against communism was pushing the US to let go of fundamentally American values: this was a struggle over the identity of the country going forward. By providing a platform for the discussion of human rights, their implementation, and the actions of the governments that the US was propping up, these hearings injected new perspectives as well as alternate sources of knowledge production into the senate. The public discourses of NGOs and activists had been creating a flow of information, exposing the excesses of governments across the three worlds - not only within the sphere of communist influence - which undermined the capitalist, and specifically American, story. Further, the mode of communication which these actors relied upon reproduced a focus on the individual, and specifically, the suffering of the individual in the fight against political repression.

The growing reception of human rights discourse in the 1970s has been examined by Bradley as informed by two distinct but intertwined strains: the global social movements of the 1960s, as well as their particularly US domestic incarnations, catalysed a rupturing in perception of the relationship of the self to the collective social, political, and economic national project; and the 70s witnessed the introduction of a radical individualism, in the search for the authentic self.¹³ While a Keynesian inspired economic model had dominated throughout the 50s and 60s in US domestic as well as foreign development policy, which demanded a communal responsibility and recognised the need of governmental intervention to provide for the national economy, this gave way to neoliberal notions of deregulation.¹⁴ Critique of the prevailing structures of power had focused upon the limits of expression and rights domestically in the pursuit of ultimately disastrous anti-communist ventures abroad. Known as the 'Me Decade', the 1970s saw an increasingly individualistic perspective that promoted self-help and therapeutic growth, in reaction to the flaws and corruption of collective Cold War sacrifices. 'Consciousness-raising' groups, which had their roots in the women's movement, stressed the authenticity of experience, drawing upon the power of testimonial in their rearticulation of a new, emancipatory politics. Amnesty drew upon the power of the individual testimonial to document the experiences of disappearances and torture (particularly focused upon Communist and Latin American authoritarian countries). In their country reports, the material evidence was set alongside - perhaps even illustrated through - visceral, personal accounts of the corporeality of torture.¹⁵ The appeal of testimonials rallied not only the campaigns of NGOs, but were also

Press, 2004) p.64

¹³ Bradley, *The World Reimagined* pp.158-160

¹⁴ This is discussed further in chapter 5 in relation to the modernisation school of thought in relation to development, however, Bradley notes that texts such as Rostow *Stages of Economic Growth*, Reisman's *The Lonely Crowd*, and Robert Dahl's *Who Governs* "helped set up an establishmentarian intellectual climate in which the structures, contexts, and institutions of society shaped the individual and lent a collective urgency to Cold War politics" p.158. See: Walt Whitman Rostow, *The Stages of Economic Growth: A Non-Communist Manifesto* (Cambridge: Cambridge University Press, 1960); David Riesman, *The Lonely Crowd: A Study of the Changing American Character* (New Haven: Yale University Press, 1962); Robert A. Dahl, *Who Governs?: Democracy and Power in an American City* (New Haven: Yale University Press, 1961)

¹⁵ Mark Philip Bradley, 'The Origins of the 1970s Global Human Rights Imagination' in *The 'Long 1970s': Human Rights, East-West Detente, and Transnational Relations*, Villaume, Mariager, Porsdam (ed.) (New York:

employed in the Senate hearings. In fact, Fraser considered these hearings also to be a 'consciousness raising project' which was "trying to elevate the subject matter and explore ways in which we can strengthen our own participation".¹⁶ The Subcommittee on International Organizations and Movements held 15 hearings on the subject of 'International Protection of Human Rights: The Work of International Organizations and the Role of U.S. Foreign Policy' between August and December of 1973: these meetings laid the foundations for a spate of legislative changes which would herald a reformulation of US human rights foreign policy, and an institutionalisation of such concerns, thus placing the issue of human rights protection and enforcement squarely on the agenda.¹⁷

The theme of 'International Protection of Human Rights' provided a through-line for the considerations of the subcommittee meetings, but in order to furnish congress with recommendations for the prioritisation of human rights considerations, a variety of topics were discussed: sessions assessed the US and UN responses to human rights abuses in specific case studies, such as the massacre in Burundi and to racial discrimination in South Africa; geographically situated studies of the human rights situations in Chile, the Soviet Union, and the North and Republic of Ireland; as well as conceptual questions of rights, including "the status of women" and the humanitarian laws of war.¹⁸ Placing the individual at the centre of critiques of power, these remained tied to negative civil and political rights, and (re)produced the logics of self-reliance in neoliberal economic models gaining prominence in developmental circles across the 70s, which negate social and economic articulations of rights that stress rights to food, shelter, work, and a basic universal income. The similar focus of the NGOs and the Congressional hearings upon the rights of the person highlight the prominence of the liberal democratic tradition of the individual in the information sharing across and between knowledge sites on human rights.

The bureaucratic restructuring and legislative shifts pursued by Congress focused upon the foreign assistance framework - both military and economic - that had been established in the 1960s: a Cold War initiative whereby the US would assign some of its budget to other countries in need of help, who would then act as a bulwark against the Soviet threat. The investigation that was carried out in the series of hearings led by Fraser attempted to assess the US involvement with states violating human rights, the existing framework within the State Department to handle this issue, as well as the ability of international institutions to protect those at risk. The resulting report, containing a number of recommendations, was published in 1974: 'Human Rights in the World Community: A Call for US Leadership'¹⁹ The

Routledge, 2016) pp.21-28

¹⁶ Sikkink, *Mixed Signals*, p.66

¹⁷ Lars Schoultz, *Human Rights and United States Policy Toward Latin America* (Princeton: Princeton University Press, 1981) pp.194-195

¹⁸ United States, *International Protection of Human Rights: The Work of International Organizations and the Role of U.S. Foreign Policy*, Hearings, Ninety-Third Congress, First Session (Washington DC: US Government Printing Office, 1974)

¹⁹ United States, *Human Rights in the World Community: A Call for U.S. Leadership*, Report of the Subcommittee on International Organizations and Movements of the Committee on Foreign Affairs, House of Representatives, 27 March 1974 (Washington DC: US Government Printing Office, 1974)

report chided the low priority afforded to human rights in US foreign policy, pointing to the long tradition of rights in the US as enshrined in their constitution, and in relation to national security concerns, the report explicitly linked gross violations with regional instability and the outbreak of war.²⁰ The impact of the committee's findings upon Congress was evidenced in a letter to Kissinger in August of 1974, signed by 104 members, to signal their opposition to military assistance awarded to repressive regimes: "Unless US foreign policies - especially military assistance policies - more accurately reflect the traditional commitment of the American people to promote human rights, we will find it increasingly difficult to justify support for foreign aid legislation to our constituents."²¹ Human rights were thereby tied to a fundamentally US-American imaginary, so ingrained that the democratically elected Representatives were obligated to represent. Inserting human rights into a historical tradition of US freedoms and rights, then writ international, invokes the American exceptionalist role of superiority, as a protector and promoter of American – yet somehow universal – ideals. However, this was not a study on what constituted universally accepted human rights, but rather part of a struggle to define the national interests and responsibilities of the US.

A sudden boost of law-making was kick-started by these pronouncements, as well as bureaucratic installations that were intended to give human rights a more visible place in foreign policy making processes. The first legislative step was a 'Sense of Congress' resolution, Section 32 of the Foreign Assistance Act of 1973, denying military and economic assistance to governments interning political prisoners.²² The following year, Section 502B of the 1974 Foreign Assistance Act was a signal that the promotion of human rights should be a central foreign policy aim of the US, a concern in the awarding of security assistance, and provided a more clearly defined, and broader reaching assertion:

"Except under extraordinary circumstances, the President shall substantially reduce or terminate security assistance to any government which engages in a consistent pattern of gross violations of internationally recognized human rights. Those violations are defined to include torture; cruel, inhuman or degrading treatment or punishment; prolonged detention without charges; or other flagrant denials of the right to life, liberty and security of person."²³

The following year again, what was known as the Harkin Amendment - Section 116 - was added to the Foreign Assistance Act. Human rights were recognised to be a consideration in development policy. Similar to the previous amendment, this prohibits economic assistance to any country deemed to be committing gross violations, "unless such assistance will

²⁰ United States, *Human Rights in the World Community*, p.9: Specific examples outlined include Nazi Germany, massacre in Bangladesh, and South African apartheid.

²¹ Sarah Snyder, "'A Call for US Leadership': Congressional Activism on Human Rights' in *Diplomatic History*, Vol. 37 No. 2 (2013) p.388 In this article, Snyder makes the case that these hearings fundamentally 'recalibrate US foreign policy formulation', adding to scholarship which has largely focused upon the Congressional or Executive championing of human rights legislation later in the decade.

²² United States House of Representatives, *Legislation on Foreign Relations Through 2002*, Volume I-A, Current Legislation and Executive Orders, July 2003 (Washington DC: US Government Printing Office, 2003) p.782

²³ United States House of Representatives, *Legislation on Foreign Relations*, pp.229-230

directly benefit the needy people in such country.”²⁴ Explicitly providing a get out clause of ‘extraordinary circumstances’, and then failing to define what this entails, is an opening for executive abuse. What presents an issue of security is an incredibly nebulous question. Further, it explicitly relates abuses to the government of a country, only recognising rights as protection of individuals from the state, failing to take into account issues of weak governance. Calculating the extent of ‘gross violations’ is a further legislative complication and escape clause for the executive, to which we shall return, as is ‘consistent pattern’. The significance of a violation or the consistency can easily be thwarted. The ‘needy people clause’ further clouds the argument for implementation. Added at the behest of those members who saw withholding aid as penalising the poor, the clause is more of a loophole as the US Agency for International Development places the needs of the poor at the centre of all of their funding pitches.²⁵ And, of course it does! What project for development would not be aimed toward helping needy people? Despite the ambiguities and the huge space allowed for interpretations of the law the discourse of human rights, and specifically the US responsibilities to promoting international standards, had gained a major following. In 1975, in response to this Congressional pressure, the State Department established a new position, the Coordinator for Humanitarian Affairs, which was “expressly created to bring a clear focus on human rights issues to activities throughout the Department, and to assure attention at the highest level, as these issues deserve”.²⁶

Of central concern to my interrogation of the ‘human rights regime of truth’, is the nature of rights which are referenced – however grudgingly – in the memos and conversations of the State Department. The roster of rights thrown out as standards for assistance, whether relating to security or developmental concerns, were all indisputably civil and political rights of the individual against the violence of the state, sparking the question of what exactly falls within the scope of human rights policy. The Congressional interpretation of ‘internationally recognised human rights’ encompasses a limited remit. While subjects such as hunger or access to water have been tackled, “Congress has chosen to emphasise socioeconomic needs rather than rights”.²⁷ This is an important distinction considering the obligations associated with rights, and while an exhaustive definition has not been offered, those examples included in 502b and 116 are standard. The struggle to define human rights while there was no formerly established position, and the dominance of the interpretations in the amendments, can also be witnessed in the questioning of human rights considerations of the US Agency for International Development (USAID). A discussion paper prepared for the advisory council entitled ‘Human Rights and Development’ opens

²⁴ United States House of Representatives, *Legislation on Foreign Relations*, p. 59

²⁵ Clair Apodaca, ‘US Human Rights Policy and Foreign Assistance: A Short History’ in *Ritsumeikan International Affairs* Vol. 3 (2005) pp.65-67

²⁶ William B. McAllistar (ed.) *Foreign Relations of the United States, 1969-1976*, Volume E-3, Documents on Global Issues, 1973-1976 (Washington DC: Government Printing Office, 2009) Document 250. Further, the duties and aspirations of the incoming coordinator can be found here: McAllister (ed.) *Foreign Relations of the United States, 1969-1976* Document 251

²⁷ Forsythe, *Human Rights and the US Foreign Policy*, p.5

with the assertion that while human rights can have many meanings, including "the right to an adequate standard of living, which is an objective of US development assistance", nonetheless "we do not need to await the perfect definition or embark on a comprehensive examination of the philosophical and moral concepts underlying the term". Rather, it is suggested that the department can function with a working definition provided by the foreign assistance law, with rights being understood as against torture; against prolonged detention; to freedom of expression, press, religion, and one's culture; to travel without discrimination; to rule of law; against political imprisonment; and finally, for women to participate equally in economic development.²⁸ Recognising that very few of these rights appear to have a direct connection with the protection of urban and rural poor, the report rationalises such a focus as necessary for the realisation of "actual — not theoretical" achievement of safeguards in access to rights and protections. This notion of the feasibility of civil and political rights over their socio-economic counterparts has become a dominant theme in US rights discourse - and international rights generally. While the latter are derided as a mere wish list without a practical plan, political and civil rights are promoted not only as practicable, but as the foundational rights. In the 'game of true and false', possible claims to rights are placed within the existing legal, political, and economic framework, thus any socio-economic alternatives are viewed as 'unworkable', as abstract and theoretical, therefore not as 'true' rights.

Under the title 'Conflicting Principles', the fundamental and irreconcilable tension is recognised between the aim of human rights promotion and nonintervention in the domestic matters of states. The sore point of this tension is identified as "when the US is linked with governments or groups that are seen to be offenders against human rights or where we appear to have the political power and technical capacity to intervene".²⁹ The provision of assistance is obviously identified as tacit approval of a regime, and the decision not to intervene as an act of intervention in and of itself. The relative lack of concern given to human rights in the countries in which USAID operated was attributed to the focus upon the violations of the Soviet Union and countries in the communist sphere, but also underpinned by the assumption that 'Third World' contact with the developed free market countries and the accompanying growth of wealth would automatically engender a greater respect for human rights. The question of US friendly relations with tyrannical regimes was gaining traction, particularly with reference to violations in the "development success stories" such as Brazil, Pakistan and Greece.³⁰ Indeed, socio-economic growth is seen as a worrisome topic in USAID with respect to rights. Entering a phase of detente, with the gaze no longer fixed solely on USSR violations, the consequences of assistance could be assessed

²⁸ 'Human Rights and Development' Discussion Paper for the Administrator's Advisory Council, 8 November 1975, NARA, RG 59, Office of the deputy secretary. Office of the coordinator for humanitarian affairs. Office of the deputy for coordinator for human rights, Human rights subject files, 1975, Human rights- advisory committee on voluntary to human rights – general, in Folder 'Human Rights – Aid', NN3-59-97-47 Lot 77D391, in Box 1 ARC ID 2658590 entry A1 5510

²⁹ 'Human Rights and Development' p.3

³⁰ 'Human Rights and Development' p.9

through a different security lens, and it is suggested that economic development unchecked may actually foster despotism and abuse of power.

Recognising the need for increased attention to the question of human rights due to changed public support and Congressional pressure, the paper does specify roles in which AID officials could prove more useful than other federal agencies with reference to human rights policy. The first is problematising the relation of economic development and the protection of human rights: does economic 'success' as sought by US aid policies in some cases promote abuses? If these can be accommodated, then how can development policies be designed to help - or at least, not to hinder - human rights? Can the offer of technical and material aid cause countries to improve their rights record? Searching for a strategy whereby the US can promote and preserve rights while dealing with issues of poverty and underdevelopment evidently views these as related, but separate, issues. Social and economic development is not included within the remit of *rights*. The authors refer to sources from the American Sociological Association, Congress, Freedom House, and a report submitted to AID from Samuel Huntington (later of *Clash of Civilizations* fame) and Joan Nelson which argued that socio-economic development "more often stimulates than reduces conflict and violence based on ethnic, religious, language and other communal differences".³¹ By the mid 1970s, the congressional drive had placed human rights upon the US foreign policy agenda: as Cold War tensions eased, the question of violations and moral accountability fell upon US friendly relations with tyrants and despots, with punitive aid conditionality instituting a standard of human rights that focused upon the protection of the individual from the abuses of the state.

Moral (Non-)Alignment: The Rights of a New International Economic Order

The pinpointing of the 1970s as a 'breakthrough' or 'explosion' in universal human rights must grapple with the fate of the Non-Aligned Movement, and the flurry of activity geared toward the realisation of a New International Economic Order (NIEO) throughout the decade. The swelling numbers of new states gave greater clout to Third Worldism movements in the UN General Assembly, where projects turned toward the dismantling of an economic order stacked against postcolonial states, an order fundamentally built along the lines of colonial logics. The 1974 General Assembly Declaration on the Establishment of a New International Economic Order opened with the determination to redress widening international wealth inequalities: "the remaining vestiges of alien and colonial domination, foreign occupation, racial discrimination, apartheid and neocolonialism in all its forms continue to be among the greatest obstacles to the full emancipation and progress of the developing countries and all the peoples involved"³². While this vision certainly differs from individual rights of Congress or of Amnesty International, can this be so easily dismissed

³¹ 'Human Rights and Development' pp.9-10

³² United Nations General Assembly, 'Declaration on the Establishment of a New International Economic Order' (6th Special Session, 1974)

from the "last utopia"?

The NIEO targeted the inherent unfreedom, the lack of rights in international economic relations. In her history of neoliberal human rights philosophy, Jessica Whyte notes the freedom framing adopted by the opposition to the NIEO, who positioned these claims to rights of natural resources as a dangerous intervention into the mechanisms of market exchange, an argument strengthened by reference to increasing violence in the Third World.³³ Those opponents pointed toward a free market exchange as an equaliser, thereby depoliticising not only the coercive practices of market regulation but also the unequal relations of global financial power and relative economic solvency.

Mohammed Bedjaoui was an Algerian lawyer at the vanguard of the NIEO. He saw the Third World as a force to reform the international, to forge a more equitable universal law. Whyte contends that Bedjaoui's universalism has been characterised as distinct from human rights, placing the NIEO as somehow ambivalent, where the individual was subordinated to the state. However, this was not quite the case, rather Bedjaoui's constellation of human dignity and universalism stretched beyond the 'liberal individualism' of the last utopia. Indeed, the achievement of a more equitable distribution of the resources would demand engagement with the problem of rights; the development of one would be naught without securing the other.³⁴

The struggle for independence of his home country of Algeria had influenced Bedjaoui's universalism in his conviction that anticolonialism held the potential to realise a universal legal framework, freed from the contradictions and colonial hierarchies of standards of civilization as well as relations of dependence. In his 1979 book, *Towards a New International Order*, Bedjaoui compared the revolutions of decolonization to those of France and Russia.³⁵ The history of the Rights of Man, enshrined in the French revolution were entwined in his defence of the NIEO: just as the Frenchman Alfred Sauvy – as we will explore in the following chapter – the Third Generation of rights, and the Third World movement, was compared to the Third Estate.

Historian Vanessa Ogle has set the NIEO as a site of rights claims, as a reminder that state-based economic rights were posed as a credible alternative to curb the power of private capital, in a collective means to redress the ever-widening international inequalities. The NIEO offers a site through which to explore the intersections of the history of economic development as well as the historicising of global rights frameworks.³⁶ State-based rights frameworks has found many articulations across the Non-Aligned Movement, at conferences of 'Third World alliances' as well as in UN forums. As Ogle notes, for individual

³³ Jessica Whyte, *The Morals of the Market: Human Rights and the Rise of Neoliberalism* (London: Verso, 2019) p.219

³⁴ Whyte, *The Morals of the Market*, p.221

³⁵ Umut Özsü, "In the Interests of Mankind as a Whole": Mohammed Bedjaoui's New International Economic Order' in *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* Vol. 6 No. 1 (2015) pp.134-135

³⁶ Vanessa Ogle, 'States Rights against Private Capital: The "New International Economic Order" and the Struggle over Aid, trade, and Foreign Investment, 1962-1981' in *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* Vol. 5 No.2 (2015)

rights to rise above the self-determination that opens both covenants, to ascend to the dominance it enjoys, something had to perish; that was the territorial grounding in self-determination, where the individual would be in the collective. In the following chapter I will delve further into the right to self-determination and the gradual turn in the 1970s toward a notion of underdevelopment as dangerous, what is today popularly known as the development-security nexus. For the moment, let us return to the mid-70s and the 'invention' of human rights in US foreign affairs, or indeed the US in human rights.

A New Morality: Get Carter

The struggle for the 'moral identity' of the US that had been gaining traction in Congress, played an increasingly relevant role in the Presidential race in 1976, on both sides of the political divide. However, while human rights had provided the language of morality in debate in Congress, this discourse became prominent only toward the end of the campaign. Popular human rights discourse in the US at this time had generally focused upon the domestic realm, and the term evoked the struggles for civil rights, the equal rights amendment, the question of abortion rights, and gay rights. The possible saliency of an international human rights foreign policy to capture the public imagination and cleanse the sullied international reputation of the US is visible in two key incidents: the Ford Administration snub of Soviet dissident and famous author Solzhenitsyn, and the increased relevance of Daniel Moynihan in foreign affairs.³⁷ The American edition of Solzhenitsyn's *The Gulag Archipelago* in 1975 had caused a stir, garnering the author attention from the media as well as a number of politicians, who commended his moral fibre, pushed for an honorary US citizenship, and proclaimed his warnings against detente. The anti-communist leader of the American Federation of Labor and Congress of Industrial Organisations invited the exiled writer to Washington to celebrate his personal sacrifice in fighting Soviet tyranny, and Ford became the target of both press and public denunciations by failing to grant Solzhenitsyn an invitation to the White house, or even to attend the banquet in fear of offending the Soviets, much to the chagrin of Kissinger. In the public imagination, the President had put the diplomatic concern above the human rights of a political dissident. The possible political power of human rights that was on display in the Solzhenitsyn affair was taken up with ire by Moynihan, a Democrat of the burgeoning neoconservative persuasion. In 1975, he wrote his most influential essay, earning him the position of Ambassador to the UN a few months later. Sporting an aggressive title, 'The United States in Opposition', the piece expresses concern about the declining influence of the US (and West generally), particularly in the wake of an expanding UN membership of postcolonial states. Remarking to Donald Rumsfeld on the amount of correspondence he received, this points to one "unmistakable message", that "people are tired of our being ashamed of ourselves".³⁸

In a tone reminiscent of today's 'political correctness gone mad' opinion pieces,

³⁷ Keys, *Reclaiming American Virtue*, pp.217-218

³⁸ Keys, *Reclaiming American Virtue*, p.218

Moynihan diagnoses a threatening development, that he terms a 'British revolution', wherein a unified and distinct movement of Third World countries has coalesced around the demand for a redistribution of global wealth as opposed to economic production. Depicting a worldview prominent among neoconservatives, the article argued that the US must move from a condescending position of apology to one of opposition, adopting a three-fold defence of the superiority of liberalism internationally, the state of the world economy, and the championing of the spread of political and civil liberties. Carving out a strong US position, Moynihan declares that "We *are* of the liberty party, and it might surprise us what energies might be released were we to unfurl those banners."³⁹ While human rights are skirted around - many of the key terms flirted with - they do not form the centre-piece of attack, not even gaining an honourable mention within the piece: this is rather a jingoistic defence of liberty as a path toward American moral victory. In his role at the UN however, human rights were placed at the centre of this rejuvenation of US strength and writing in 1977 on Carter's presidential run, he argued that "human rights is the single greatest weapon we have left for the defense of liberty".⁴⁰ The struggle for the American conscience was at the focus of foreign policy consideration; claims to morality from a variety of positions were staked. While the Carter Presidency has become inextricably associated with human rights in the popular consciousness, in fact almost all of the possible presidential candidates placed morality at the forefront of their foreign policy proposals. As human rights increasingly rose to prominence, as an issue that had been given little thought by the previous administration - an omission believed to have contributed to the failings - the fault-lines of who should and could be targeted with accusations of human rights abuse came out in the primaries, as it had in Congress. The weaponisation of human rights discourse in the Cold War was certainly not restricted to the US, but in the moral quandary of the 70s this proved a particularly appealing stick with which to beat their enemies. The split, however, concerned who could be categorised as an enemy, and whether to turn said stick toward (potential) allies.

While Reagan campaigned upon an anti-Communist wielding of the rights of man - which of course would occupy the White House in the following term when he took office - there was a growing remit of chastisement across the more liberal Republicans and Democrats. The groundwork for the essential human rights legislation and institutionalisation had been laid prior to his election, but Carter undoubtedly inaugurated a novel executive commitment to the issue.⁴¹ The Vietnam quagmire had left a bad taste in the mouth, and expeditionary interventionism was definitely off the table. In an address dubbed his 'human rights speech' during the last weeks of campaigning, Carter underscored the "total commitment to the preservation of human rights, individual liberty, and freedom of conscience", in condemning the previous fixation on the balance of power - while careful

³⁹ Moynihan, 'The United States in Opposition' in *Commentary* (March 1975)

⁴⁰ Daniel P. Moynihan, 'The Politics of Human Rights' in *Commentary* (August 1977)

⁴¹ Kathryn Sikkink, 'The Power of Principle Ideas: human Rights Policies in the US and Western Europe' in *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change* (ed.) Goldstein, Keohane (Ithica, Cornell University Press, 1993)

not to commit to global policing - he argued that this "requires the careful balancing of realism and idealism."⁴² In this careful balance, both conservative and liberal concerns were addressed, referring to both the Soviet sphere and right-wing authoritarian regimes.

Warning that the next administration must not occupy the other extreme in righting the wrongs of staunch amorality in an overzealous haze, Carter stressed that they should respect self-determination, but no longer turn a blind eye toward torture or detention. This speech envisioned a human rights policy with a moral fibre that did not entail a crusade. Calling forth a grand American tradition of rights, the Cold War could not be used as an excuse. From a chaotic series of embarrassments at home and abroad, human rights discourse was broad enough to encompass many priorities, while remaining tied to a policy of diplomacy, not risking further entanglements.

Carter's inaugural address was largely centred around foreign policy, and declared that "our commitment to human rights must be absolute"; in his farewell address, their elevated stature in the American imaginary is highlighted in the assertion that "America did not invent human rights [...] human rights invented America [...] The love of liberty is the common blood that flows in our American veins".⁴³ In the struggle for the heart of the US, the alignment of human rights with personal liberty and thus an American tradition conjures an essential identity, that had been lost, but through the promotion of human rights could be found once again.

While the commitment to human rights in Carter's administration can in no way be considered 'absolute', a number of foreign policy actions and administrative shifts evidence an elevated importance. More deeply institutionalising human rights diplomacy within the State Department, by the end of his first year in office the position of Coordinator was promoted to Assistant Secretary for Human Rights and Humanitarian Affairs and installed within the Department as a Bureau. Patricia Derian, a civil rights activist, was appointed to the role, cementing the domestic and international struggle for individual autonomy. The bureau was tasked with preparing country reports on human rights circumstances in compliance with 502b, initially limited to those countries receiving economic and security assistance and later expanded to all - bar one, the US not subject to a self-evaluation. The assessment of a country's human rights record - and those countries receiving assistance therefore allied to the US - rest upon a notion that such rights were fundamental to the sovereign duty and thus to the mutual respect in participation in the international space. However, by taking a country-by-country approach, not establishing a one-size-fits-all template for success, national security interests were afforded space in the calculations.⁴⁴ Again, the collation of information to be distributed and raise awareness was key to human rights promotion at this time. Public diplomacy was the name of the game: while committing to recognise and support the victims of personal infringement, Derian stressed that there

⁴² Kristin L. Ahlberg (ed.) *Foreign Relations of the United States, 1977-1980*, Volume 1, Foundations of Foreign Policy (Washington DC: United States Government Printing Office, 2014) Document 9 p.42

⁴³ Jimmy Carter, 'Inaugural Address', Washington DC (20 January 1977); Jimmy Carter, 'Farewell Address', Oval Office, White House (14 January 1981)

⁴⁴ Ahlberg (ed.), *Foreign Relations of the United States, 1977-1980*, Document 22

was no desire to send in an army. Indeed, the promotion and normalisation of human rights discourse on an international level was heralded as a fundamental stepping-stone toward international peace. In an interview, Derian stressed that those people in distant countries fighting against human rights abuses want "to hear some kind of echo, some kind of response", and addressing the question of multiple human rights rendering meaningful communication impossible, she maintained that "there are certain universally accepted human rights that are recognised throughout the world."⁴⁵ This position assumes some degree of accord in rights speak, however, this poses the question of who is able to speak for the 'universal', who can authorise the discourse of the universal?

The latter part of the 1970s was a significant moment in the professionalisation of human rights both within (and across) government and in human rights activism. Amnesty International was awarded the 1977 Nobel Peace prize, showcasing the global and dedicated membership, and introduced as a movement that "sprung spontaneously from the individual's deep and firmly rooted conviction that the ordinary man and woman is capable of making a meaningful contribution to peace."⁴⁶ The field of human rights activism, boosted by the receptive audience of the Carter administration, was increasingly dominated by professionals - and particularly lawyers - who generated new NGOs such as Human Rights Watch (previously known as Helsinki Watch) which emerged in 1978. The emphasis upon an increasingly legalistic framing of human rights - which focuses upon the legal defence of the individual against repression - was furthered by the role of the American Civil Liberties Union (ACLU), which engendered a connection between domestic civil rights activism and international pacifism. The ACLU was initially formed in 1920, emerging from the National Civil Liberties Bureau who had defended the rights of anti-war protestors and conscientious objectors, as an activist organisation holding socialist and libertarian tendencies. As the legalistic focus became detached from an overtly political stance, the ACLU in the Cold War saw a huge swell in membership and a shift toward the liberal mainstream.⁴⁷ The ACLU was the training ground of many of the leaders of the 70s human rights movement, as Patricia Derian had served as a member of the national executive committee in Mississippi, and the founding director of Human Rights Watch Aryeh Neier had served as director. Human rights as form of legal activism converged civil liberties with movements for nuclear disarmament and anti-war demonstration, as various lawyer activists entered the political fray of the state department. From this collective experience, and the movement of NGOs away from political articulations of rights toward the law as a guarantee against abuse, the advance of human rights was linked to the strengthening of the legal protection of the individual against the state - the limitation of sovereign power both domestically and internationally.⁴⁸ As

⁴⁵ Interview with Patricia Derian, US News and World Report Dec. 4 1978 (Article) in Folder 'Human Rights – rights – Report – AF 1977 to Human Rights – Status Reports, ARC ID 1487627

⁴⁶ Aase Lionaes, 'Presentation Speech on the Occasion of the Award of the Nobel Peace Prize for 1977', University Festival Hall, Oslo (10 December 1977)

⁴⁷ Judy Katalas, *The American Civil Liberties Union and the Making of Modern Liberalism, 1930–1960* (Chapel Hill: The University of North Carolina Press, 2006)

⁴⁸ Nicolas Ghulot, 'Limiting Sovereignty or Producing Governmentality?: To Human Rights Regimes in U.S.

Derian argued, "our human rights is dictated by international law": framed as an anti-political response, where the human suffering could be tackled through an overarching legal framework of sovereign restraint.⁴⁹ This juridification of human rights was predicated on a belief in the efficacy of building and reforming institutions across the political landscape in order to protect the individual, wherever they may be suffering.

In her 2003 text 'Unsettling the Coloniality of Being/Power/Truth/Freedom', Jamaican cultural theorist and Professor Emerita Sylvia Wynter noted the 1970s as a period of (re)entrenchment, the sanitising of radical potential. This was a response to the 1960s, which had borne witness to multiple contestations in the meaning of the Human, struggles at both the global level, in anticolonial rebellions as well as European activists, and in the US by the multiple protest movements of civil rights led by Black and other populations of colour, as well as feminist and queer liberation movements. The struggle of our times is to disentangle the human from what Wynter terms of the "overrepresentation of 'man'", defined as the present ethnoclass of Western, Bourgeois 'Man' as the stand-in for the universal. Referring to Frantz Fanon's category of the damned, Wynter has theorised the archipelago of human otherness of the domestic Others in the poor, criminalised, jobless, homeless, and impressed, alongside the 'undeveloped' spaces of the Third and Fourth World, "all of whom, interned in their systematically produced poverty and expendability".⁵⁰ The professionalisation, juridification, and sanitation of human rights struggles produces spaces amenable to the Order of the ethnoclass of Man. The conditioning of humanity in these legal frameworks outlined spaces of Otherness where aid could be withheld, the inhumanity contained.

Containment of Conditionality

Congress remained a driving force behind the placement of human rights on the agenda, as Carter's commitment did not contain the will of Congress to further US involvement abroad. Section 701 of the International Financial Assistance Act of 1977, orders representatives to international financial institutions - namely, the International Monetary Fund and World Bank - to 'advance the cause of human rights', by restricting loans to countries that engage in:

- “(1) a consistent pattern of gross violations of internationally recognised human rights, such as torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of life, liberty, and the security of person; or
- (2) provide refuge to individuals committing acts of international terrorism by hijacking aircraft.”⁵¹

Political Discourse' in *Constellations* Vol. 15 No. 4 (2004) pp.504-505

⁴⁹ Derian quoted in Ghulot, 'Limiting Sovereignty' p.505

⁵⁰ Sylvia Wynter, 'Unsettling the Coloniality of Being/Power/Truth/Freedom: Toward the Human, After Man, it's Overrepresentation – An Argument' in *The New Centennial Review* Vol. 3 No. 3 (Fall 2003) p.325

⁵¹ Forsythe, *Human Rights and US Foreign Policy*, p.11

This act seeks to make an example of those states deemed to be outside of internationally recognised norms at the level of global financial institutions. The Carter administration was initially reluctant to enforce such a potentially far-reaching policy, and the international institutions themselves feared that such 'political' concerns would prove contrary to the purely economic considerations in their founding, as the Articles of Agreement of the World Bank stipulate considerations be limited only by economic criteria. Of course, such a position assumes that the economic is fundamentally apolitical and that development is a moral goal in and of itself, implying that the activities of these lending institutions are void of political motives: a position which has been pushed to the extreme under neoliberalism, more of that to come in Chapter 5.⁵² The assumption of neutrality, of the economy as a self-regulating and positive force, has contributed to the dominance of individual negative rights, where undernourishment, underdevelopment, and underprivileged through poverty is viewed as an inescapable facet of contemporary international life when corrupt native leaders cannot restore order.

The repercussions of such a stance, where the largest contributor invokes a standard for lending, was explored in an internal memo of the World Bank, under the leadership of Robert McNamara at the time, dated the 29th of November 1977. Responding to the congressional motion, the unease and complications of implementing a human rights standard in the development strategy of the bank is evident throughout. The 37-page soul-search was triggered by a letter from Clarence Long - Chairman of the Subcommittee on Foreign Relations - who warned McNamara that the US representatives would be voting to oppose loans to seven countries - Vietnam, Laos, Cambodia, Uganda, Mozambique, Angola, and Cuba - and if assistance continued regardless "this committee and the House of Representatives will take a very serious view of this conduct next year when consideration of the fiscal year 1979 budget requests for the multilateral institutions will be before the Congress of the United States".⁵³ The letter itself - noted in the memo - does not explicitly refer to "gross violators of human rights", or indeed mention human rights at all. This does however follow a letter from Carter to Long in which he gives his support that "U.S. assistance through the banks must take full account of the human rights policies of recipient countries."⁵⁴ Wielding the fiscal clout of the US is quite the threat. The accompanying memo aims to address the issues facing the Bank with reference to: the implications of the recent US human rights legislation upon the lending operations of the Bank; international law; the extent to which the Bank may take human rights into account in first place according to the Articles; and finally, suggests alternate courses of action to be considered. The recent spate of US legislation is understood to pose dangers for the Bank: in the short-term, of a US reduction in funds, and longer term, that the Bank will become politicised and subject to the overpowering ideological will of particular members, as opposed to respecting the interests

⁵² Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law* (Cambridge: Cambridge University Press, 2005) p.260

⁵³ Robert S. McNamara, 'Human Rights Issues and the Bank and IDA' November 29 1977, in Folder 6 World Bank Human Rights 1977, Collection 'McNamara, Box I:28, Library of Congress, Washington DC

⁵⁴ Letter, President Carter to Mr. Long (In Holding 'Human Rights Issues and the Bank and IDA' (October 6)

of the international community and the progress of development. Development is explicitly viewed in apolitical terms, the economic progress of the world community as free of ideology and as a naturalised journey to success. Further, the legislation is said to provoke a central question in human rights policy: the US refers to an international standard that must therefore be applied uniformly and universally, but can such a standard exist? How can one withdraw aid when no such universally accepted definition has been found? Claims to 'internationally recognised human rights' reference an agreed-upon recognition that had not taken place.

This document confronts the difficulties and potential dangers of plotting a course of punitive measures in relation to human rights violations. Despite being drawn from the same founding documents of the UN, varying interpretations cloud the view: the US focuses upon "political freedom and the humane treatment of individuals", while many other nations - including those developing - employ an economic position "in terms of an obligation of a country to afford work and economic security to its citizens".⁵⁵ It is argued that the ambiguities of UN definitions, which allow a wide space for interpretation, leave any standard susceptible to the weight of political wills. Indeed the challenge facing the Bank - and the international community generally - is presented as finding a definition specific enough to act as a consistent, overarching standard, that would not enable the powerful few to arbitrarily discriminate, and that could be applied across international institutions.

The obstacles, however, are numerous, as the competency of the executive directors, the UN, and the International Court of Justice to enact decisions, as well as the inconsistency of the US application - as instigator of this standard - are called into question. This document points toward the proliferation of legitimate sites of knowledge in legal thinking and implementation in the burgeoning field of human rights, which has only continued to grow, also encompassing activists, NGOs, and academics. As non-intervention and human rights are the twin pillars upon which the new international order - emerging from the Second World War - had been built, the legitimacy of national sovereignty provided protection from too much interference in the name of human rights. As human rights began to inform a standard of sovereignty, this shield could be pierced, but only for those nations which were deemed as failing to uphold the standards of behaviour legislated as legitimate. The benchmark proposed by the Carter administration upon international financial institutions reflects a hierarchical notion of sovereignty.

By invoking human rights as a marker of legitimacy to receive aid in the progress of development, while referring to an all-encompassing 'human', this discourse in fact introduces distinctions. Stipulating particular aspects to promote, human rights discourse is reduced to a specific notion of (negative, political) freedom. Economic rights are excluded. Further, the disallowing of life that is implied in refusing aid to an underdeveloped country is not acknowledged: the violence of such an action is obscured in the presentation of a hard-line stance of life promotion. Such violence can be highlighted – and will be explored later –

⁵⁵ 'Human Rights Issues and the Bank and IDA' p.27

in the Clinton administration sanctions against Hussein's Iraq. The memo references competing conceptions of freedom, not merely that relating to personal injury from the state. As many had accepted the right to development as a fundamental right, this was evidently hierarchised by US human rights policy. In direct contrast to the supposed inalienability of rights, the right to development could thus be jeopardised by a poor record on the political and civil front. The project of development is inherently asymmetrical, as will be explored in section 2 on sovereignty: however, it is important to note here the separation of life (developed/undeveloped) through reference to 'freedom'.

While the Carter administration in practice did not fulfil the promises of rights promotion, the discursive currency was certainly inflated, transnational conversations started and institutional reshufflings undertaken. The separation of developed and underdeveloped life is inherently biopolitical, and the construction of a yard-stick for inclusion in the form of human rights create a barrier to becoming-developed. While human rights were not integrated into the structure of the World Bank until the 1990s, a 1981 transition briefing paper on the US relationship with the World Bank and the International Development Association noted the US human rights policy. Describing the issues facing the incoming Reagan administration in the nature of the support and participation with the Bank, the paper outlines five areas of 'policy problems', which includes human rights, stating that "since January 1, 1977, the U.S. has opposed, through 'no' votes or abstentions, nearly 100 loans (including other MDBs) on grounds of human rights. A substantial change in this policy would require changes in current legislation".⁵⁶ Human rights as standards of aid conditionality were then not explicitly formalised in the World Bank. Yet, with the US assuming leadership at the helm, loans could be opposed to any country that Congress deemed to be committing 'abuse', in a domestic legislative framework which was already installed and put to use.

Institutionalising the Individual: Carter to Reagan

While there was no universally agreed upon definition of human rights, there was also no consensus on the validity of human rights in foreign policy, or the appropriate direction of moral condemnation. Institutionally, within the State department, the new bureau faced derision and opposition from other bureaus (particularly those with a geographic focus that was targeted on human rights grounds), and when the going got tough for Carter, human rights provided a sore spot for enemies to press: a focus upon human rights in foreign policy was accused of distracting from security and economic concerns, a position that clearly separates these aims in international relations.

Practically, the administration did block military aid to a few countries - all Latin

⁵⁶ 'IDA and the World Bank Transition papers' (2 January 1991) in Carter-Reagan Administration Transition Papers, National Security Archive, Washington DC. p.2; Also, Clair Apodaca, Michael Stohl, 'United States Human Rights Policy and Foreign Assistance' in *International Studies Quarterly* Vol. 43 No. 1 (1999) pp.185-198. MDB – Multilateral Development Bank

American - and reduced economic assistance to Afghanistan, Morocco, and Thailand, while other 'gross violators' continued to receive aid on account of security considerations. The possible mobilisation of morality and superiority through human rights discourse had entered the executive in Carter's presidency: heterogeneity in the international sphere remained possible, while the necessity of human rights began to be introduced as a standard of entry to the developed world. In the (temporary) thawing of the Cold War, the US could focus upon bringing allied regimes toward their principles, not preoccupied with the possibilities of Communist insurgency. However, the assessment of standards of behaviour on a case-by-case basis, inserts a political intervention of pressure. The Carter administrations manifestation of human rights policy involved condemnations of violations from both the right and the left, authoritarian and communist-totalitarian, and did not place great emphasis upon the promotion of democratic governance: with the inauguration of Reagan and the chilling effects of a return to Cold War tensions, the direction of human rights - a discourse that had been inserted into foreign policy-considerations - would turn the glare toward the Soviet Union. This can be highlighted through reference to the knowledge production of individual nation's rights records, the country reports.

In the Human Rights Country Reports compiled for Congress under Carter, the twelve human rights covenants and agreements that were attached as an appendix were said to reveal an internationally-recognised rights platform organised into three main groups: the freedom from "governmental violation of the integrity of the person"; the right to basic needs such as food and shelter; and finally, civil and political liberties.⁵⁷ The 1981 report, the first of the Reagan presidency, found that these same twelve documents could be grouped into just two categories:

"First, the right to be free from governmental violations of the integrity of the person -- violations such as torture, cruel, inhuman or degrading treatment or punishment; arbitrary arrest or imprisonment; denial of fair public trial; and invasion of the home; second, the right to enjoy civil and political liberties, including the freedom of speech, press, religion, and assembly; the right to participate in government; the right to travel freely within and outside one's own country; the right to be free from discrimination based on race or sex."⁵⁸

Employing an exceptionalist tone of the US as a nation born with "a love of liberty", the struggle for "individual rights" was tied to the foundational moment of the American war of independence. Placing the individual at the centre of the political community, the resulting declaration had dictated the 'inalienable' status of rights, demanding no obligatory duties of membership or postponement of some liberties to allow for others to catch, thus precluding, it is argued, any gradual articulation such as economic development.⁵⁹ Beyond this historical precedent, the decision to omit social and economic rights posits these rights

⁵⁷ US Department of State, *Country Reports on Human Rights Practices 1980*, 97th Congress 1st Session, Report Submitted to the Committee on Foreign Relations, US Senate (2 February 1981) p.2 4

⁵⁸ US Department of State, *Country Reports on Human Rights Practices 1981*, 97th Congress 2nd Session, Report Submitted to the Committee on Foreign Relations, US Senate (February 1983) p.2

⁵⁹ US Department of State, *Country Reports 1981*, p.5

as open to the abuse of tyrants, who disingenuously evoke the sentiments of human rights while repressing civil and political liberties. While recognising the 'moral imperative' of tackling widespread poverty and starvation, these are articulated through the foreign aid programmes.⁶⁰ Social and economic rights were therefore removed from the official metric of human rights reporting, under the assertion that "new interpretations", such as the right to development, could act - and it is argued often has acted - as a cover for further abuse. The exceptionalist rhetoric of the report, and the insistence upon the narrow definition of civil and political rights, can be juxtaposed with the founding of the American branch of Human Rights Watch in the same year. According to its founder Robert Bernstein, this was to act as a check and to "correct 'all the lies' of the early State Department reports": human rights groups pointed to further hypocrisy in the myriad abuses that were being carried out by the US while they were assessing the progress of other countries, including many that persist to this day such as police brutality, the death sentence, the treatment of asylum seekers, and the carceral system.⁶¹ Despite the country's own abysmal record in these 'traditional' rights, this narrow version as predicated on the US declaration - alongside the delegitimising of social and economic needs as 'rights' - was evident throughout the Reagan administration.

A Letter to Santa Claus

While Carter's human rights agenda was certainly in the crosshairs of Reagan critique, the staying power of rights as a foreign policy principle could not be avoided. Following the Congressional rejection of Ernest Lefever nominated as Assistant Secretary of State for Human Rights and Humanitarian Affairs, a man who had previously testified that human rights standards should not be applied to sovereign nations, an internal memo of the State Department underlined the importance of human rights: "we will never maintain wide public support for our foreign policy unless we can relate it to American ideals and to the defense of freedom".⁶² However, what freedom must be defended?

Jeanne Kirkpatrick, the neoconservative who was appointed as the US ambassador to the UN questioned the viability of social and economic rights in her 1981 article 'Establishing a Viable Human Rights Policy'. Discussing the recent 'Right to Development', she denigrates these additions as becoming 'a letter to Santa Claus', in failing to understand the role of 'rights', a passage worth quoting at length:

"They can multiply indefinitely because 'no clear standard informs them, and no great reflection produced them'. For every goal toward which human beings have worked, there is in our time a 'right'. Neither nature, experience, nor probability informs these lists of 'entitlements', which are subject to no constraints except those

⁶⁰ US Department of States, *Country Reports 1981*, p.6

⁶¹ Robert Bernstein quoted in Costas Douzinas, *Human Rights and Empire: The Political Philosophy of Cosmopolitanism* (Oxon: Routledge, 2007) p.31

⁶² 'Excerpts from State Department Memo on Human Rights' in *The New York Times* (6 November 1981) <<https://www.nytimes.com/1981/11/05/world/excerpts-from-state-department-memo-on-human-rights.html>>

of the mind and appetite of their authors. The fact that such 'entitlements' may be without possibility of realization does not mean they are without consequences. The consequences of treating goals as rights is grossly misleading about how goals are achieved in real life. 'Rights' are vested in persons; 'goals' are achieved by the efforts of persons. The language of rights subtly vests the responsibility in some other. When the belief that one has a right to development coincides with facts of primitive technology, hierarchy, and dictatorship, the tendency to blame someone is almost overwhelming. If the people of the world do not fully enjoy their economic rights it must be because some one - some monopoly capitalist, some Zionist, some man - is depriving them of their rightful due".⁶³

This argument implies that civil and political rights have agreed upon standards and practical goals, missing in the social and economic as these are merely a mushrooming constellation of 'entitlements', unbound in their imagination. Not only are these argued as impossible to realise but Kirkpatrick addressees their purported potential to rupture the existing order of liberal (racial) capital – which she argues is merely a straw man. Social and economic rights are to Kirkpatrick not only a wish list, but dangerous in their potential to incite blame. The danger of social and economic rights to radically unsettle the existing economic and political international order renders them as a mere myth, as an incoherent and open vessel for all grievances, a stance which completely dissociates dispossession with a lack of ability to articulate the social and economic agenda. In this schema, the status quo is not the problem, but those who refuse to conform. Development is not a right, but a state of being to be attained for the security of the individual.

The human rights agenda that was pursued in the Reagan administration, focused upon the protection of the civil and political rights of the individual, and tied human rights to a particular form of governance, that of the liberal democratic state. In order to avoid a Sisyphean task in human rights, the 1981 human rights report also argued that beyond the essential reactive approach, the roots of political repression must be addressed. Under the heading of 'Building Freedom', the report advocated the adoption of a broader focused, "positive" policy, that was "to assist the gradual emergence of free systems". The stemming of human rights abuses was tied to political fixes, as "it is in such systems that we can most realistically expect the observance of human rights across the board. The development of liberty is, in turn, encouraged by the emergence of areas within a political system where free choices and free expression can become familiar and respected."⁶⁴ This conception of liberty - without reference to the external constraints that are placed upon this 'freedom of choice' - is essentialised as the foundation of human rights. While we will return to the equation of human rights policy with democracy promotion, it is important to note here the reduction of rights to civil and political (re)produces as natural the processes of American liberal capital. Reagan's human rights rhetoric married human freedom (as freedom from state oppression) with democratic government and the free market. Excluding socio-economic rights to the

⁶³ Jeanne Kirkpatrick, 'Establishing a Viable Human Rights Policy' in *World Affairs* Vol. 170 No. 2 (2007) p.79

⁶⁴ US Department of State, *Country Reports 1981*, p.10

processes of development, the ability to consume and to gather wealth would then be assured through a successful, free state of democratic rule. In Reagan's Manichean international vision of the free world against the 'evil empire', human rights was tied to the spread of democracy - as free elections and limited governmental intervention - and capital; the Cold War continuation of this enmeshed logic can be evidenced in the Clinton administration re-branding of the Bureau of Human Rights and Humanitarian Affairs, which in 1993 was renamed the Bureau of Human Rights, Democracy, and Labor.

Good Governance Of Course!

Before turning toward the post-Cold War agenda, let's consider the way in which human rights enters the logic of global economic governance: human rights have been tied to economic development and prosperity. That is, where people are socially and politically oppressed it is argued that economic growth is stilted, a position used to propose a correlation between individual freedom and national wealth. Social and economic rights are not recognised, rather development being understood as the pathway to provide for the needs of the underdeveloped (only civil and political negative rights of the individual enter the economic global governance discourse).

The process of integrating human rights into the lending framework of the IMF began in 1998 under the leadership of Camdessus, and continued under the successor Köhler. Camdessus presented the notion of 'humanizing globalization', as recognising the possibility of erasing the pain and suffering that is wrought by poverty: it is posed that global growth must not forget the human faces of those poverty stricken, as the director calls upon an emotive example of two Guinean teenagers found dead while attempting to reach Europe. Outlining the dual process that would enable such a 'humanised globalisation', Camdessus argued:

"Poor countries themselves need to generate high-quality growth. We can learn from the positive experience of many African countries who, assisted by IMF-supported programs, have begun to reverse the sad cycle of one and a half decades of declining per capita growth, high inflation and external imbalances. We know the ingredients: a stable macroeconomic environment; an open, efficient market economy, a framework that fosters private investment; and yes, transparency, financial sector soundness, and robust economic institutions. Good governance of course! With all that entails: in particular respect for the rule of law and an independent judicial system that recognizes property rights, enforces contracts and protect basic citizen's rights."⁶⁵

The rights that are referred to are explicitly tied to a liberal capitalist imaginary, where property rights are placed at the forefront. Alternative imaginings, potentially disruptive to capital, are not afforded legitimacy in the struggle for 'rights'. The freedom to accumulate is

⁶⁵ Michael Camdessus, 'Address to the Board of Governors of the Fund' Chairman of the Executive Director of the IMF to the board of Governors of the Fund, Washington DC (28 September 1999)

understood - separately from the socio-economic contexts of dispossession - as the basis of economic fulfilment. A standardisation of governance - which includes human rights - envisions global success only through a process of 'humanising', a position that refuses any fundamental disruption of the mechanisms of capital through an alternation articulation of economic, social, or collective 'freedom'. Premised upon an inclusive globalisation of self-reliance - an apolitical realm of opportunity - the divide between the wealthy and the global borderlands is further entrenched, and relations of 'emancipation' tethered to this system (on pain of exclusion).

The World Bank released a report in 1998 tackling the subject, *Development and Human Rights: The Role of the World Bank*'. It opens by addressing the discussion of the 'most important rights', noting that while many believe the civil and economic rights to be 'traditional' and the bedrock of all further freedoms, the recognition of 'basic necessities for an adequate standard of living' have been articulated in the Covenant of Social and Economic Rights, as well as the Declaration on the Right to Development. Concluding that the importance of this debate has been in the reminder that *all* principles in the Universal Declaration are important, it goes on to distinguish between human rights (as 'traditional') and development in their mutual relationship:

"Unfortunately, however, public discourse on human rights and development too often ignores their fundamental two-way relationship. The world now accepts that sustainable development is impossible without human rights. What has been missing is the recognition that the advancement of an interconnected set of human rights is impossible without development. Enlightened legislation and vigorous civil society are essential. But they are not enough. Human rights are in a sense both the design and the product of people organized through government. They don't just happen."⁶⁶

Social and economic rights are then reduced to the processes of development, the standards of which are dictated by international institutions and global financial powers, as will be explored further in the following chapters. However, it is important to note the intertwining of oppressive regimes with the failure to meet social and economic markers of success. In a political economy of human rights enforcement, Ivan Manokha observes that such a formulation does not address the question of why social and economic 'basic necessities' in the majority of states fail to be met: by tackling the question through a fixed economic frame of development, "solutions are technical-instrumental (for example, economic aid) or further implementation of the structural adjustment programmes"⁶⁷. Underdevelopment is then rendered as an objective problem to be solved in order for human rights to flourish, thus social and economic rights are bound to the limitations of capital 'success'. The problematisation of post-colonial spaces through the paradigm of aid, (re)produces the economic order sustaining the global disparity of wealth, a continual reproduction of what

⁶⁶ The International Bank for Reconstruction, *Development and Human Rights: The Role of the World Bank* (Washington DC: The World Bank, 1998) p.2

⁶⁷ Ivan Manokha, *The Political Economy of Human Rights Enforcement: Moral and Intellectual Leadership in the Context of Global Hegemony* (London: Palgrave MacMillan, 2008) pp.177-178

Wynter referred to as the overrepresentation of Man. While the damned of Otherness sustain the wealth, consumption, and freedom of Man, development is presented not only as a common-sense fix to the pervasive problems of poverty, but the taken-for-granted notion of human rights as the freedom of the individual from oppression.

2.4. From Freeing Prisoners of Conscience to Humanitarian Intervention

"Today we see liberal capitalism and its political system, parliamentarism, as the only natural and acceptable solutions. Every revolutionary idea is considered utopian and ultimately criminal. We are made to believe that the global spread of capitalism and what gets called "democracy" is the dream of all humanity. And also that the whole world wants the authority of the American Empire, and its military police, NATO"

- Alain Badiou, 'On Evil'

Human security has become something of a watchword in academic, policy, and non-governmental circles of security thinking and making. Placing the figure of the 'human' at the forefront has been intended to shift focus from the traditional referent object of the state, in the recognition that (some) states can be implicit or complicit in the (in)securing of peoples gained prominence. What has been referred to as the broadening and deepening of security, involves efforts to re-imagine, to restore, and to reinvigorate security: the underlying premise is that security itself is a good thing, it has just been too limited in its imaginings.

The need to complicate and reinvent security gained traction in light of a new post-Cold War landscape, with calls for a movement away from mutually assured destruction toward the fostering of life.¹ Human security is certainly the most potent and policy-relevant manifestations of discontent with the traditional realist conception, evidenced in the institutionalisation within the UN framework and championing by multiple General-Secretaries. Human security has also been heralded by advocates as a more policy-oriented security approach, one that will focus upon the practices of developing the life of individuals through tangible, practical effort to respond to social, economic, environmental, as well as political problems.² A discourse of cosmopolitan aspiration, human security is intended by its advocates to intertwine the theory and practice of international relations and governance, which has ultimately resulted in the affirmation of the moral legitimacy of (liberal) democratic government. Speaking to the inevitability of a universalism founded upon cosmopolitanism, Jabri has interrogated the subjectivities formed in the postcolonial encounter that takes place within - and that is inherent to - the cosmopolitan, with the liberal self in possession of a global reach, whereas the Other (almost overwhelming postcolonial) is "somehow reinscribed in terms of the dichotomy of modernity and tradition, civilisation and barbarism, freedom and unfreedom"³.

¹ Calls to reconceptualise security can be seen in the 1980s, with Richard Ullman providing one of the earliest examples: Richard H. Ullman, 'Redefining Security' in *International Security* Vol. 8 No. 1 (Summer 1983) pp.129-153

² For a selection of human security references, Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2003); Nicholas Thomas, William T. Tow, 'The Utility of Human Security: Sovereignty and Humanitarian Intervention' in *Security Dialogue* Vol. 33 No. 2 (2002) pp.177-192; A. Acharya, 'Human Security: East versus West' IDSS Working Paper No. 1, Institute for Defence and Strategic Studies, Singapore (September 2001); R. Thakur, 'A Shared Responsibility for a More Security World' in *Global Governance* Vol. 11 No. 3 (July-September 2005) pp.281-289

³ See Vivienne Jabri, *The Postcolonial Subject: Claiming Politics/Governing Others in Late Modernity* (Oxon: Routledge, 2013) p.3

The practices of both intervention and population management that are inherent in the implementation of human security must be interrogated in terms of their understandings of the two central concepts, both of the human and of security, particularly in terms of the assumptions that they (re)produce, the articulation of 'legitimate' knowledge, as well as that which is excluded from consideration. This chapter will interrogate human security, as well as the centrality of human rights in the linking of the tripartite aims of the UN that rose to prominence in the 1990s - human rights, development, and (human) security: human rights discourse contributed to the creation of a juridical figure of the human, along with all of the constitutive exclusions therein. There have been claims of a 'paradigm shift' from the state-centric securing of borders toward the protection of the individual at the trans-/supra-national level with the adoption of a human security framework, which would relate myriad, previously disconnected, insecurities from the everyday to the existential level.⁴ Security is therefore understood as a necessary good, one that has merely been misused and misrepresented: this logic dictates that once security is affixed to the welfare of people, liberty will surely follow. The struggle to attribute the 'security' label to various aspects of human existence regulates our understanding of the 'human', as the discursive boundaries that are attached to 'security' deems threatening any dismissal or questioning of the need to secure. What are the fundamental necessities of a secure and dignified life? Simultaneously, our understanding of the human, contours the imaginations of security, how it can be achieved and what must be secured. Within the security logic, a human being assuredly *wants* security, as a member of this global species, and that security configures a particular global ideal of capitalist, liberal-democratic societies of negative freedoms, or, put differently, with the capacity to participate in capitalist structures of the nation state. How do the prescriptions of human security constitute who is considered human?

Deterring a nuclear holocaust in great power-plays - that had dominated the security-scape for decades - gave way to greater concern for the welfare of people, the planet that we share, and the interconnections of humanity. In this re-evaluation of security, the apparent changed nature of military threat has been conceptualised as inherently linked to underdevelopment as well as the infringement or denial of rights: how can a human be secured, and what threats can 'feasibly' be considered a security issue?⁵ The three pillars of the UN - security, human rights, and development - are perhaps most coherently intertwined within this discourse, however, with security providing the anchor. Placing security at the forefront, underdevelopment and a lack of rights are seen as threatening, not only to those individuals within such spaces, but to the larger species life, to humanity. Thus, this 'humanising' of security, ultimately reproduces and institutionalises the dominant norms and structures of the existing world order, including reproducing the nation-state, but only for those who make the grade. Measures of liberty and security have been

⁴ Lloyd Axworthy, 'Human Security and Global Governance: Putting People First' in *Global Governance* Vol. 7 No. 1 (January-March 2001) pp.19-23; Mary Kaldor, *Human Security: Reflections on Globalization and Intervention* (Cambridge: Polity Press, 2007).

⁵ For a discussion of the development-security nexus, see Chapter 3.3

increasingly employed, that have contributed to a 'bench-marking' of sovereign capacity. This chapter intends to interrogate the measures of 'success' and the subjection of an ever-expanding remit of human experience to a global security project, particularly the temporalities and assumptions therein. The pervasive nature of this re-articulation - and shifting scales -of security, can be evidenced in the US as officials of the Clinton administration referred to a need for "a new understanding of the meaning and nature of national and of the role of individuals and nation-states".⁶ Such a framing - notably retaining the association of security with the nation - infers that threats to the nation must expand beyond traditionally understood dangers, whereby seemingly distant and disparate events in other countries can be considered a matter of (inter)national interest. Indeed, by the end of the decade, the Clinton administration had considerably extended the remit of 'vital interests' in which multilateral or unilateral force could be used.⁷

Human Security

In 1965, Averell Harriman made reference to the UN as addressing a wider notion of security than previously possible in an international institution: "All the agencies in the UN family are dealing with one or another aspect of human security - the kind that comes from safety standards for the operation of steamships, aircraft and atomic reactors; or the kind of security that is reinforced by decent standards of nutrition and education".⁸ While this already references security beyond the military threat, such a conception of 'development as security' did not find a global policy audience until the 1990s, and the UN Human Development Report of 1994 (UNDP 94) is widely recognised as the introduction of the Human Security agenda. The 'human' refers to the group of individuals who share a universal basis of rights and 'potential capabilities', and the security refers to a minimum condition being assured where these individuals can exercise the rights and freedoms, in order to fulfil their capabilities.⁹ The foregrounding of the 'human' - replacing the nation-state as referent object - highlights this as an intended alternative to traditional security: human security is posed as a people-centric articulation central to the 'broadening' of security that has been flourishing since the 1990s. From the outset the concept has been wedded to a goal of sustainable development; the report notes that the ongoing crises of underdevelopment have been continually side-lined through a focus upon conflict in security, and underlining the long-term human suffering engendered through poverty,

⁶ Cited in Ben Miller, 'The Concept of Security: Should it be Redefined?' in *Journal of Strategy Studies* Vol. 24 No. 2 (2001) pp.13-42

⁷ Will be discussed in Chapter. 3.4 but see also, Jacques Derrida, *Rogues: Two Essays on Reason* (trans.) Brault, Nass (Stanford: Stanford University Press, 2005)

⁸ Overall Harriman, 'Secretary's Charter Amendment Statement' (20 April 1965) in Folder 5 UN Charter Special Files, Public Service, JFK-LBJ Subject File, Library of Congress Manuscript Division [LOC Man] Washington DC

⁹ United Nations Development Program, *Human Development Report 1994* (New York: UNDP, 1994); See also, Natasha Marhia, 'Some Humans are more Human than Others: Troubling the "Human" in Human Security from a Critical Feminist Perspective' in *Security Dialogue* Vol. 44 No. 1 (2013) p.21

disease, and social repression. Envisioning an emancipatory and holistic notion of security, sources of human vulnerability would be addressed from human rights abuse to environmental degradation, poverty to health. It is argued in the report that the dominant narrow view of security was tied to nation states, serving the interests of the conflicting super-powers, while developing nations were safeguarding their fragile self-determination, and "forgotten were the legitimate concerns of ordinary people who sought security in their daily lives".¹⁰ In seeking to develop strategies for the improvement of the daily life of 'ordinary people', the report assumes a broad definition of human security which entails the provision of both "safety from such chronic threats as hunger, disease and repression" as well as 'protection from sudden and hurtful disruptions in the patterns of daily life - whether in home, in jobs or in communities'.¹¹

However, human security is an amorphous concept which continues to be negotiated across policy, national, academic, and legal boundaries. Within this complex, there are many articulations of human security, which have often been characterised either as narrow - which focus upon violence - or broad - taking the more holistic range of issues that are understood to threaten a liveable life, including poverty, the environment, and health.¹² What unites these positions in the contentions to define human security, is an emphasis upon being objectively verifiable. As human security has been discursively created in a realm of 'policy-relevant' security, Grayson highlights two imperatives of the "definitional quandary": the establishment of a concrete, universal notion of what human security entails, which can facilitate statistical models to measure the conditions of human (in)security; armed with this quantitatively verified analysis, policy prescriptions can then be made to calculate means of prevention (or intervention). Therefore, human security is bounded by the ability to produce evidence on a correlation - that can be statistically proven - as an issue of security to the individual: "the implicit disciplinary politics of the research are that rigorous scholarship must establish causal relationships that can be translated into clear (biopolitical) policy prescriptions to be deployed by key actors".¹³ Both articulations - narrow and broad - are aimed at improving the life of the individual by a risk management approach at the level of the population. Through the definition of threat, the strategies of prevention are aimed at the contingencies of life itself, attempting to ascertain patterns and measurements. Surveying a global terrain, research and policy positions on the issues of human security are then dictated by the prescriptions that are necessary to solve it - not concerned with challenging the role of such international hierarchies in the (re)production of insecurity - which privileges particular knowledges on what security means and how security is achieved. To verify an insecurity, there must be a 'security' against which to compare. These positions are different articulations of how to know and to manage

¹⁰ UNDP, *HDR 94*, p.22

¹¹ UNDP, *HDR 94*, p.23

¹² T. Owen, 'Human Security. Conflict, Critique, and Consensus: Colloquium Remarks and a Proposal for a Threshold-Based Definition' in *Security Dialogue* Vol. 35 No. 3 (2004) pp.373-387

¹³ Kyle Grayson, 'Human Security as Power/Knowledge: The Biopolitics of a Definitional Debate' in *Cambridge Review of International Affairs* Vol. 21 No. 3 (2008) p.389-390

problematic populations.

Human security as outlined in the UNDP report comprised four essential elements: the notion of universality; a recognition of the interdependency of threats; a focus upon prevention as opposed to intervention; and finally, a people-centric approach. The notion of universal concern referred to the commonality of threat faced by people, regardless of where they live in the world, in rich nation or in poor. For instance the report notes that while threats such as "unemployment, drugs, crime, pollution and human rights violations" varied in their intensity, they can be experienced by anyone and are in fact worsening. Interdependence recognises the role of the international community in human security issues anywhere; as the consequences of famine or terrorism cannot be contained within the nation state borders, their consequences will spread, therefore necessitating external assistance. In responding to this interdependence, the emphasis upon prevention means targeting the roots of instability before a crisis occurs. Using HIV/AIDS as an example, the report argues that investing even a few billion dollars in health and family planning education could have contained the spread of the disease, compared with the 240 billion dollars that was spent during the 1980s in reacting to the crisis. Finally, the focus placed upon the human concerns how the individual exercises their freedom within a society, the economic and social opportunities which are available, and the prevention of conflict. This focus upon the life of the individual and population, *how they interact within a society* - through the lens of universal and interdependent strategy of prevention - implies that the concept of human security is concerned with the management of a notion of a global, acceptable, dignified life.¹⁴

What does this dignified, universal, human life look like? The supposed transference from the state to the people, is relayed in the report as foundational to the UN project. Establishing historical precedent, and a pre-existing articulation of trans-national spatialities of security (Jabri's cosmopolitan terrain of humanity), the report quotes US Secretary of State Edward R. Stettinius from 1945, that "the battle of peace has to be fought on two fronts. The first is the security front where victory spells freedom from fear. The second is the economic and social front where victory means freedom from want".¹⁵ The four golden pillars of Roosevelt's freedoms that had adorned the inaugural meeting of the UN in San Francisco, had been reduced to two freedoms *from*. The ability to live freely is thus conceptualised negatively in human security discourse. Freedom is also conceived as fundamentally individual, a reflection of the *liberal* universalism. Individual freedom is thus essentialised. This does not question how one can practice freedom, and the restrictions that are placed upon freedom by neoliberal and neo-colonial structures which dictate the right and wrong ways to lead a free, and a secure, life. The Commission on Human Security, led by famed development economic Amartya Sen and Sadako Ogata, released its final

¹⁴ UNDP, *HDR 94*, pp.22-23; Kosuke Shimizu, 'Human Security, Govermentatliy, and Sovereignty: A critical Examination of contemporary discourse on Universalizing Humanity' in *The Geopolitics of American Insecurity* (ed.) Debris, Lacy (Oxon: Routledge, 2009) pp147-148

¹⁵ UNDP, *HDR 94*, p.3

report in 2003, adding a third pillar - the freedom to take action on one's behalf, claiming that "human security starts from the recognition that people are the most active participants in determining their well-being".¹⁶ This is an inherently liberal premise, placing the individual at the centre of their own fate, that they know their own 'best interests' and those striving to attain it must then be helped. Freedom is then associated with 'freedom of choice' and autonomy to act, without recognising systemic constraints upon this liberty. In a reading of the economist Martha Nussbaum's 'capabilities approach' - developed with Sen - Marhia argues that the individual subject that is the referent object of human security is then "construed as an autonomous chooser", where development and security are then attained "through the exercise of practical reason and moral choice".¹⁷ Whose choices - therefore reason and morality - are being questioned? Human security has overwhelming been targeted toward the developing world, the liberal - rational and moral - subject placed at the centre of human security. While the HDR 1994 identified seven interrelated components - economic security, food security, health security, environmental security, personal security, community security, and political security - along the demarcation of freedom from want and freedom from fear, human security discourse has largely focused upon the problems of development and conflict.

Before analysing these twin foci, it is imperative to note that these locate human security disproportionately within the global South. The prevalence of human security in both academic and policy discourse has witnessed an expansion of security-talk, coming to the fore in the 1990s as a sort-of security with a human face. This development has been heralded both as the necessary, emancipatory progression of security in a post-Cold War world, and conversely as a chimera of undefined threats, whereby all human existence can be securitised, thus rendering security meaningless.¹⁸ Human security combines two amorphous streams of disciplinary thought, the subject of the 'human' and the state of being 'secure'. The competing constructions of both are central to biopolitical governance. What does it mean to be secure and what is the life-to-be-secured, what does it mean to be 'human'? The discourse of human security has failed to sufficiently interrogate the notion of the 'human', falling back upon the normative framework of a liberal humanism.¹⁹ As stated in a Human Security Report project, human security is "less an analytical concept than a signifier of shared political and moral values"²⁰. Thus, morality is linked to the securing of a particular way of life, one that is seen as both politically and ethically universal, as a will of a

¹⁶ Commission on Human Security, *Human Security Now* (New York: Commission on Human Security, 2003) p.10

¹⁷ Marhia, 'Some Humans are more Human than Other' p.22

¹⁸ Roland Paris, 'Human Security: Paradigm Shift or Hot Air?' in *International Security* Vol. 26 No. 2 (2001) pp.87-102; Sandra J. MacLean, David R. Black, Timothy M. Shaw (ed.) *A Decade of Human Security: Global Governance and New Multilateralisms* (London: Routledge, 2016); David Chandler, 'Human Security: The Dog that Didn't Bark' in *Security Dialogue* Vol. 39 No. 4 (2008) pp.427-439; Ryerson Christie, 'Critical Voices and Human Security: To Endure, To Engage, or To Critique?' In *Security Dialogue* Vol. 21 (2010) pp.161-190

¹⁹ Marhia, 'Some Humans are More Human than Others' p.2

²⁰ quoted in Mark Duffield, *Development, Security and Unending War: Governing the World of Peoples* (Cambridge: Polity Press, 2007) p.114

shared, and inescapable, human nature. Further, the conceptual ambiguity allows for the functioning of complex and multiple relations, programmes, alliances, and administrations across borders, under this umbrella. The 'human' is combined with the mobilising concept of security.

This project of humanising security is nonetheless subject to the power/knowledge assemblages of 'security', the supreme concept of liberal ideology. The production of a notion of a secure life, within the larger unit of humanity, engenders a managerial problem of how to deal with the abnormal. Indeed, efforts to 'humanise' security presuppose security as a universal and natural state, that as a member of humanity one should want to attain. Neocleous refers to the 'security industry' in an effort to dispel the "illusion that the desire for security is something that somehow emerges spontaneously from people's needs" as well as highlighting "the way security products are tailored for consumption and, through this, the ways in which the security industry integrates its consumers into a wider culture of (in)security".²¹ Security is in this way 'marketed' through knowledge production which (re)produces the infallibility of security logics, simultaneously excluding any alternative thinking as dangerous, idealistic, and ultimately threatening to the species as a whole. Attempts to widen, broaden, deepen, and humanise security encompasses an ever-expanding remit, whereby it is increasingly considered that the whole - of the state/community/society/species - must be placed within a single-track of progress toward security, for there to be any meaningful security at all. The presentation of a lengthening list of human experience as insecurity enforce the framework of a security project. This process of posing questions as insecurities reproduces a particular securitising practice, where the state retains its role as a central player, whether as referent or provider of security. When placing humanity within the logic of security, what happens when one part of humanity becomes recognised as a threat, as insecure?

Development as Human Security

The claim to security entails the decisions as to who is to be secured, by what, and from whom, and how the 'human' prefix is constituted determines the answer to each of these questions. The humanising of security is structured through a value judgement of the 'dignified human life' according to minimum conditions of fulfilment and the attainment of individual security is placed within a universal interdependence of a common humanity. Marhia argues that in reaching a definition of the dignified human life, there is an implicit notion that those lives who do not fulfil these basic requirements are less-than-human, a lack that must be nurtured and filled before the recognition as fully-human.²² The deficit of development has been rendered an issue of (in)security. Founded upon the 'universalism of

²¹ Neocleous, *Critique of Security*, p.143; See also Neocleous, 'Against Security' in *Radical Philosophy* Vol. 100 (March/April 2000) pp.7-15; Grayson, 'Human Security as Power/Knowledge'

²² Marhia, 'Some Humans are more Human than Others' pp. 21-23; Carol Quillen, 'Feminist Theory, Justice, and the Lure of the Human' in *Signs* Vol. 27 No. 1 (2001) pp.87-122

'life claims', the normative expectations of development in human security discourse are grounded in a particular universalism which takes as its starting point a rational human nature. This entwining of the human with development and security, renders underdevelopment as dangerous, (a relation which will be developed in detail in the following chapter).²³ The 94 report in fact places development as a necessary pathway toward security: "more generally, it will not be possible for the community of nations to achieve any of its major goals - not peace, not environmental protection, not human rights or democratization, not fertility reduction, not social integration - except in the context of sustainable development that leads to human security".²⁴ While advocating for a concerted effort, to meet the 'universal' concerns of the environment and peace, the diagnosed social ills are focused upon the South, and are placed within a continuum of development.

Addressing 'freedom from want' through the development paradigm, addresses poverty as an objective state of being to be fixed through the deployment of development aid and fostering the capacities to manage it. The insecurities of underdevelopment are understood as wholly evolving from their own inabilities. Under the rubric of security, any call for a radical reimagining of the economic in order to address wealth inequalities, or a collective articulation of social justice, can be rendered as increasing insecurity. In a 2005 report of the Secretary General, Kofi Annan referred to the interdependence of the three pillars of the UN, arguing that "we will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights".²⁵ The title 'In Larger Freedom' was to reflect the triumvirate of liberty in development, security, and human rights. It is important to note that the discourses of human security are steeped in the assumptions of a developmental-modernist framework of universality, obscuring the matrices of power that reproduce a liberal humanism. Resting upon standards of a dignified life, human security discourse implies a process of 'becoming' for the people of the 'developing world', where the rights afforded to humanity are achieved through developing capacity for security and liberty.

Alain Badiou, in his exploration of ethics and the construction of evil, asserted that "the term 'ethics' today relates above all to the domain of human rights", and lamenting the return to a doctrine of naturalism as a manifestation of the decline of revolutionary (Marxist) politics.²⁶ Indeed, an ethical response to the plight of the poor, downtrodden, or persecuted of this world can scarce be imagined beyond the framing of human rights claims, and the fundamental human dignity afforded to all within humanity. Interrogating the universal subject that is inherently conjured by the assumption of an ethics of rights, Badiou posits the figure of the 'immortal' as opposed to the visceral, corporeal reality of a living animal that is ascribed the status of Victim. The rights of this immortal Man are exercised

²³ see chapter 3.3.

²⁴ UNDP, *HDR 94*, p.1

²⁵ United Nations General Assembly, *In Larger Freedom: Toward Development, Security, and Human Rights for All*, Report of the Secretary General, A/59/2005 (21 March 2005) p.6

²⁶ Alain Badiou, *Ethics: An Essay on the Understanding of Evil* (London: Verso, 2012)

over the contingencies of life and death.²⁷ While Badiou does not evoke the concept himself, the project of security is inherently concerned with this management of contingency. Such unknowables arise from an amorphous mass of living beings, from species life, and the unknown must be regulated - and the deviants pacified. The secure state, the Immortal, can never truly be achieved, but it must constantly be negotiated and strove toward, and this is carried out through the eradication of insecurities. For Badiou, the subjectification of immortality is what constitutes the Man of rights, and those existing outside are the masses of victimhood, who must be saved. This distinction, inherent in the ascription and language of human rights, is depoliticised as a recognition of suffering, and therefore prescribes the civilising intervention, holding those animal others in contempt:

"this is why the reign of "ethics" coincides, after decades of courageous critiques of colonialism and imperialism, with today's sordid self-satisfaction in the 'West', with the instant argument according to which the misery of the third world is the result of its own incompetence, its own inanity - in short, of its sub humanity".²⁸

The discourse of rights in this way reproduce the dogma of security, and the necessary hierarchies therein, where the Third World is held responsible in the inability to attain standards of civilisation, therefore endangering the whole. Human security is an inherent biopolitical project, as an attempt to explain the pervasive threats to the Global North that arise from the fractures, instability, and inertia of the Global South²⁹. This linking of *our* security to *theirs* demands that something must be done, global society must be defended. This can be evidenced in the shared concern of both broad and narrow articulations of human security - the 'changing nature of conflict'.

Human Security as Peace-keeping: Cleaning up the 'Bad Neighbourhoods'

The traditional security concern of military matters in inter-state belligerence was thrown into question at the end of the Cold War, and the escalating humanitarian crises across the 1990s from the breakup of Yugoslavia to the genocide in Rwanda gave weight to a growing consensus that the most prevalent and most dangerous type of warfare was in fact intra-state. As the UNHD report attests, "with the dark shadows of the cold war receding, one can now see that many conflicts are within nations rather than between nations".³⁰ Only certain states were problematised through the paradigm of human security. Boutras Boutras-Ghali addressed the optimism of globalisation as easing pacific communications and cooperations, as accompanied by "fierce new assertions of nationalism and sovereignty" where the "cohesion of States is threatened by brutal ethnic, religious, social, cultural, or linguistic strife".³¹ These civil conflicts were then not limited by the

²⁷ Badiou, *Ethics*, pp.11-12

²⁸ Badiou, *Ethics*, p.13

²⁹ Duffield, *Development, Security, and Unending War*, p.112

³⁰ UNDP, *HDR 94*, p.22

³¹ United Nations Secretary General, *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-Keeping*, A/47/277, Forty-Seventh Session (17 June 1992) Point 11

international laws of war regarding civilians and human rights violations. A central problematic of human security, the states within which such conflicts were taking place, were identified as 'underdeveloped' and unfree nations, prompting a re-evaluation of the consequences of underdevelopment for the individual's liberty and security. Therefore, the Cold War logic of realistically managing military threat through the balancing of power and arms-requisition were replaced by the concerns of threats stoked through the larger issue of underdevelopment. The persistence of warfare as well as the fundamentally changed nature gained traction in the 1990s, a particularly potent example being Mary Kaldor's 'New Wars' thesis.³² Thakur brings to light the troubling statistic that in the 20th century, the battle deaths of all international and civil wars were 30 million and 7 million respectively, while "the total number of civilians killed by governments (excluding wars) was 170 million".³³ The necessity to reconceptualise international security with the individual as referent is portrayed as necessary, not only to address the failures of state-centric security to provide an explanation for civil conflict, but also as civilians had been placed at the mercy of states.

A people-centric articulation of security recognised that states are not only the source of protection but often the perpetrator (or incubator) of violence. The 'Human Security Report' project at the University of British Columbia has consistently focused upon the interrelations between the lack of human security and violence.³⁴ Crises, conflicts, and emergencies are profiled as disproportionately arising from particular sites - sites of underdevelopment - and the root causes have been increasingly indexed, and situated within these states themselves, erasing any global involvement, or responsibility before the decisive moment of intervention. It is the supposed existence of a 'new', changed war-scape, that the moral imperative of intervention draws legitimacy. Underdevelopment as inherently dangerous has gained increased currency, particularly in the post 9/11 era where these states are hotbeds of disillusionment fuelling insurgent 'philosophies' and filling terrorist training camps. Kaldor's depiction of the world's 'bad neighbourhoods' including the Horn of Africa, the Middle East, and Central Asia' reproduce the dichotomous distinction of the globe into metropole and global periphery, whereby the chaos of an unregulated borderlands threatens the security of civilisation "through refugees and displaced persons, through transnational criminal activities, and through polarising activities".³⁵ The 'bad neighbours' of the world are problematised through reference to a Western ideal-type. While addressing the supposed change in the belligerent actors of conflict, human security power/knowledge frameworks pathologise the violence as a fault of the regions plagued by ethnic, religious, social, cultural, or linguistic strife: thereby excluding the international structural violence of global capital and western hegemony, which is in fact rather boosted by the discourse. Thus,

³² Mary Kaldor, *New and Old Wars*, 2nd Ed (Cambridge: Polity Press, 2006)

³³ Ramesh Thakur, *The United Nations, Peace and Security*, (Cambridge: Cambridge University Press, 2008) p.79 [emphasis added]

³⁴ For a list of publications from 'The Human Security Project' <<http://www.css.ethz.ch/en/services/css-partners/partner.html/13296>>

³⁵ Mary Kaldor, Shannon D. Beebe, *The Ultimate Weapon in No Weapon: Human Security and the New Rules of War and Peace* (New York: Public Affairs, 2010) p.37

the power structures of international relations are inherently reproduced in human securities linking of underdevelopment and conflict, or, in Duffield's formulation, as perceiving underdevelopment as inherently threatening. Duffield critiques the sharp distinction that is inherent in the separation of Cold War from post-Cold War conflicts in the developing world, arguing that this does not stress a shift toward a disrespect for human rights and civilian status; rather, "the real difference is that the international community of effective states now denies any legitimacy to warring parties within ineffective states".³⁶ This is not to say that a state of underdevelopment does not exist, but rather, it has been pathologised and problematised in a specific way, through the acquisition and arrangement of specific knowledge, which has then been used to develop political strategies of 'development'.

Human security has thus retained an inherently statist-notion of security, as ultimately states are charged with assuring the security of their citizens. However, human security has been turned toward an evaluation of the right to exercise state sovereignty. Boutras-Ghali asserted that all members states, and each chamber of the UN, had a special role to play in attaining an integrated approach to human security. The state is identified as the "foundation-stone of this work", as "respect for its fundamental sovereignty and integrity are crucial to any common international progress", while adding that "the time of absolute and exclusive sovereignty, however, has passed; its theory was never matched by reality".³⁷ While the final sentence is oft-quoted as recognising the need to reform non-interference norms, Duffield notes the paradox that is formed along with the preceding sentiment. While human security is about the individual, it is understood as differentially experienced across different states. Those problematised as hindering human security, are the developing world, the ineffective states, the failures, where the time of "absolute and exclusive sovereignty" had passed (as thought it had indeed ever existed). Interference in overwhelmingly postcolonial spaces is then conceived within a cosmopolitan ethic, thus human security can be "more accurately understood as *effective states prioritising the well-being of populations living within ineffective ones*".³⁸ Douzinas argues that "weak implementation mechanisms ensure that the shield of national sovereignty is not seriously pierced, unless the interests of the great powers dictates otherwise", referencing the Balkan region as an example.³⁹ Pushing this further, national sovereignty can be seriously pierced, but only within a particular geographical and temporal imagining. That is, those states who constitute the global periphery, can be questioned by the metropole, and this problematisation in fact institutes a process of correction - regime change - before re-instituting the sanctity of sovereignty (at least, if all goes to plan).

Beyond this question of interest, the operation of human rights and human security as

³⁶ Mark Duffield, *Development, Security and Unending War: Governing the World of Peoples* (Cambridge: Polity Press, 207) p.117

³⁷ UN Secretary General, *An Agenda for Peace*, Point 17

³⁸ Duffield, *Development, Security, and Unending War*, pp.121-122 [italicised in the original]

³⁹ Costas Douzinas, *The End of Human Rights*, p.120

sites of resistance within a liberal imaginary of legitimate force must be interrogated as (re)producing the status quo. Security mechanisms function as a regulatory practice, directed toward the future in managing contingencies which emerge from the milieu of species life, in the everyday interactions. The expansion of the sites of security inherent within human security - that is, the entire species, and the entire international - extends the legitimate sites of intervention. By constructing the image of security, of a 'successful nation', as the developed nation, is there indeed any way that such a developed state can be subject to these structures of (human) 'securitisation'? In the regulation and management of a global security-scape, human security's initial moves have been in the articulation and institutionalisation of measurements of insecurities, hierarchising threats to human life.⁴⁰ The indicators and benchmarks of the human security framework, provide a site to interrogate the discourse as controlling meaning, and therefore policy practice, as defining both the human dignified life, and of a secure state of being.

'Scientification' of Freedom

A contention has emerged in human security discourse as to the principle of prevention, and the question of intervention. As aforementioned, the 1994 report envisioned preemptive actions, in calculated problem areas, in order to ensure a maximum improvement in the quality of life *before* the decisive moment in the face of a humanitarian crisis. The practices under the umbrella of human security have roused much critical debate over whether the concept is simply a way of managing perceived risks to global security through new modes of intervention and administration in the Global South, particularly in light of the attention paid to the developing world as the source/cradle of insecurity. The fear of a move toward outright intervention in 'underdeveloped' states was seemingly vindicated with the publication of the 'Responsibility to Protect' by the International Commission on Intervention and State Sovereignty, which will be highlighted at the end of this section. Presenting a fundamental shift in security thinking, away from the focus on national boundaries of both great powers and precarious new nations, the development report presents human security in a distinctly preventive manner - difficult to calculate - whereby the threat stopped was one not allowed to come to fruition:

"In the final analysis, human security is a child who did not die, a disease that did not spread, a job that was not cut, an ethnic tension that did not explode in violence, a dissident who was not silenced. Human security is not a concern with weapons - it is a concern with human life and dignity".⁴¹

Characterised as meeting threats 'upstream' as opposed to down, the report proposes a series of 'indicators' to function within a programme of preventive and curative development as well as preventive diplomacy, also providing a list of particular "countries

⁴⁰ Miguel De Larrinaga, Marc G. Doucet, 'Sovereign Power and the Biopolitics of Human Security' in *Security Dialogue* Vol. 39 No. 5 (2008) pp.517-537

⁴¹ UNDP, *HDR 94*, p.4

already in a state of crisis - such as Afghanistan, Angola, Haiti, Iraq, Mozambique, Myanmar, Sudan and Zaire".⁴² This series of 'early warning indicators' remains wedded to conflict and the nation state under a peacekeeping logic, as attempts to signal the triggers for national breakdown leading to war and ethnically motivated violence. This is not to suggest that particular states are not in varying states of crisis, but rather to problematise how these crises are framed, and the corrective measures that are legitimised through such knowledge production. Human security discourse has not been turned to the widening inequality gaps, to the problem of homelessness, to healthcare coverage inequalities within Western neoliberal states, nor used to analyse the inequalities produced by these practices of accumulation worldwide. This universal security strategy remains wedded to the state, not as the referent object but as the site, the provider, of security.

This (re)orientation of threat at the level of the individual human, takes life as the target of its strategies (or making life live in Dillon's terms). The management of contingency and risk-avoidance, is a necessarily future-oriented, preventive pursuit, which is concerned with the calculation of when to intervene. In the instance of human security, (possibly problematic) populations - and specifically the health and wellbeing of said populations - provide the site of intervention. Human security has thus been inexorably preoccupied with the understanding of human *insecurity*: referring to a necessity for policy-relevant research, the discourse is marked by a focus upon the collation and categorisation of threat.⁴³ The pinpointing of the 'true' threat to human life has increasingly shifted from interstate conflict to internal strife and underdevelopment, which problematises these spaces, thus advocating for strategic intervention in the regulation of the wellbeing of these targeted populations. What *could* pose a threat is thus a series of calculations of *possible* risky circulations within the population - of people, money, crime, etc - which must be managed in order to achieve good governance. Fed through the constellation of peace, development, and human rights, the framework of indices and categories of the secure and dignified human life has constituted a 'scientification' of freedom. In calculating maximum freedom, securitising - even human(ely) - is thus concerned with containing and correcting those sections which prove problematic, or insecure. Exploring the relations of security and circulations within a defined space, Foucault asserts that security is targeted toward a state of being that cannot exist, toward controlling disease or crime "knowing that they will never be completely suppressed", but calculating and maximising the best possible circulations with the least risks; security cannot be attained but is reliant upon the construction of insecurities, geared toward "a future that is not exactly controllable, not precisely measured or measurable", where contingencies of "what might happen" are considered and planned for.⁴⁴ In the intertwinement of 'security' with discourses of international 'humanitarian

⁴² UNDP, *HDR 94*, p.4

⁴³ See Miguel De Larrinaga and Marc G. Doucet, 'Sovereign Power and the Biopolitics of Human Security' in *Security Dialogue* Vol. 39 No. 5 p.528

⁴⁴ Michel Foucault, *Security, Territory, Population: Lectures at the College de France, 1977-1978* (trans.) Burchell (New York: Palgrave Macmillan, 2007) pp.19-20

concern' a country's developmental level and ability to foster human capability, the ability of intervention in a sovereign space by external forces - multilaterally or otherwise - is reproduced through the distinction of developed/underdeveloped, secure/insecure, and by association, civilised/barbaric. The pathway of liberal progress that is mapped throughout the UNDP 94, even though vaguely defined, relies upon the exclusion of other possible articulations of life.

While the UN Human Development Report of 1994 has overwhelmingly been examined in terms of the launch of human security, Alexandra Homolar unpacks the importance of the document as establishing categories of 'security' in the form of indicators and measures of how the international community should map the trajectory of a dignified human. As she argues, "the process of translating the concept of human security into a series of tangible, measurable objects ('reification') relies on operationalising normative assumptions about what constitutes 'liveable' human existence into observable and measurable categories".⁴⁵ Resting upon specific a priori notions of 'human-ness', such indicators are conceived as providing a road map of vulnerability and (potential, future) instability across regional, social, cultural, economic, and political divides. Further, this framework of indication infers a scientification, a rationalisation of the pathway to failure, or to insecurity and breakdown, that can be observed, measured, and corrected in the construction of a one-size-fits-all, universal ideal.

The seven categories of security that were to be contained under human security were furnished with a diagnosis of vulnerability, in an attempt to unearth causal relationships that could furnish statistical models as a guide to preemptive action. Homolar critiques the efficiency of benchmarking, and specifically the Human Development Index as outlined in the report:

"Each of the components of the human security framework presented in the 1994 HDR suffered from a similar vagueness in relation to conceptualisation and operationalisation. In addition, many of the indicators selected were based on unexplained and value-laden assumptions about what factors are important in making individuals 'secure' across the different core categories of human security - which essential ingredients add up to a 'liveable life'".⁴⁶

As an example, economic security is one of the most substantially outlined in the report; without offering a definition, it focused upon the requirement of an 'assured basic income' rather than economic growth, and noted that "only about a quarter of the world's people may at present be economically secure in this sense".⁴⁷ In describing 'human' economic vulnerability, income insecurity across both the developing and the standard-bearing developed world recognised issues such as unemployment, homelessness, and the ability to gain income support through social security structures. However, citing "data limitations"

⁴⁵ Alexandra Homolar, 'Human Security Benchmarks: Governing Human Wellbeing at a Distance' in *Review of International Studies* Vol. 41 (2015) p.844

⁴⁶ Homolar, 'Human Security Benchmarks' p.848

⁴⁷ UNDP, *HDR 94*, p.23

the presentation of "measurable" economic insecurity phenomena separated the Global North from the South, in referring to national aggregate data on unemployment and Gross National Per Capita, respectively. Failing to produce a universal indicator, the datasets chosen are problematic as a measurement for the economic insecurity of the individual not only in their ontological fact of separation. These datasets were collated for different means, as an assessment of national performance: a calculation of averages, not explicitly connected to the calculation of a basic income. Further, the provision of individual economic security is tied to a dataset which reflects the national economic performance.⁴⁸ Striving for policy-relevance, the statistical models used to portray human (in)security structure what is able to be discussed in terms of 'concrete' facts, thereby limited to the assumptions underpinning the data-sets chosen.

Such practices are pervasive across the human security discourse: while the Human Security Report of 2005 on war and peace noted that 'it is not possible at present - and may not even be desirable to produce a reliable human security index', nonetheless "it is possible to determine which countries are most threatened by political violence, human rights abuse and instability".⁴⁹ Again referring to data limitation, the report notes a reliance upon data on the macro level as opposed to the micro, drawing upon the Uppsala/Human Security Report, the Political Terror Index, the Global Report on Crime and Justice, and the Political Instability and Absence of Violence index in order to produce a tableau of violence across the world. This narrow conception of human security still relies upon the data limits defined by the territorial limits of the nation state as the source of study: as Grayson notes, "geopolitical logics can operate hand in hand with biopolitical surveillance to produce key directives about potential sites of (non)intervention".⁵⁰ Portrayed as an emancipatory, humane security, the reliance upon knowledge created within pre-existing structures of power thus (re)produces the hegemonic structure of the international. If human insecurities and vulnerabilities are assessed according to the epistemological status quo - only certain 'abnormalities' will be made visible: the definitions of human security structure how we categorise human suffering - while the Kosovan war would be framed as a human security issue, the mismanagement of hurricane-ravaged New Orleans would not.⁵¹

By placing the activities of the state in the crosshairs, as opposed to mapping the multifaceted threats to the health and wellbeing of the individual, the right to exercise sovereignty could possibly be revoked by the international community, as the emerging norm of a contingent sovereignty emerged (but contingent, only for some). Benchmarking has provided a particularly salient methodology of measuring human security. This process of calculation, assessing the differential capacity of states to govern, is rendered as both objective, ahistorical, and scientific, through empirical measurement. The quantification of a dignified life into categories of numerical data emerged in the Cold War, for example in the

⁴⁸ UNDP, *HDR 94*, pp.25-26; Homolar, 'Human Security Benchmarks' pp.847-848

⁴⁹ Grayson, 'Human Security as Power/Knowledge' p.391

⁵⁰ Grayson, 'Human Security as Power/Knowledge' p.392

⁵¹ Grayson, 'Human Security as Power/Knowledge', p.395

World Development report which began in 1978, as enabling the measurement and comparison of sovereign capability in the processes of decolonisation. The production of quantifiable knowledge that renders data legible through graphs and indices, removes any consideration of structural hierarchies and constraints and effaces any consideration of race, gender, or class, through the presentation of neutral, raw statistics, which are amenable to the ordering of the global finance structures of neoliberal capital. Rendering the hierarchies of global development into statistical data is indicative of the depoliticisation of the economic, enforcing a prescriptive framework of entry.⁵² The prevalence of this 'scientification of freedom' can be highlighted through multiple examples at the national and international level.

'Freedom in the World' is a report published annually (beginning in 1972) by the US NGO 'Freedom House'. Freedom House proudly espouses its foundational bipartisanship in the 1940s, formed as a voice against isolationism, and Eleanor Roosevelt served as one of the two first honorary co-chairs. This organisation is explicitly concerned with the analysis and promotion of political rights and civil liberties, both domestically and abroad. Thus, the freedom that is placed front and centre of its mission, is limited to the consideration of these articulations. Reflecting the pivotal movement of human-rights thought in US foreign policy, the organisation declares that "during the 1970s, Freedom House turned its attention to the erosion of freedom in many parts of the developing world. With Marxist regimes, juntas, and military strongmen holding sway over swathes of Asia, Africa, the Middle East, and Latin America, Freedom House responded with programs that combined research and analysis, advocacy, and on-the-ground involvement in crisis areas".⁵³ In the competition to assert knowledge claims in the articulation of freedom, this widely-cited report presents an objectively universal framework of freedom, and objectively calculable metrics of that which hinders liberty, as each country in the world is given a numerical 'Freedom Rating' and a corresponding status of 'Free', 'Partly Free', or 'Not Free'. The attribution of a rating upon territorial articulations of the state reflects a management of responsibility or utility in the international community through a system of classification, where freedom is an objective and measurable phenomena according to specific criteria. The rating is scored through an analysis of a series of questions that are structured across the two indicators, political rights and civil liberties. The former includes questions concerning electoral process, participation, and transparency, while the latter issues address media and religious freedom, and the rule of law.

These criteria, that constitute a normative standardisation, are found in human rights discourse. The Universal Declaration of Human Rights is cited as the foundation of the report's methodology, which is said to be "based on the premise that these standards apply to all countries and territories, irrespective of geographical location, ethnic or religious

⁵² Branwen Gruffydd Jones, 'Good Governance and State Failure: The Pseudo-Science of Statesmen in our Times' in *Race and Racism in International Relations: Confronting the Global Colour Line*, ed. Anievsk, Manchanda, Shilliam (London: Routledge, 2014) p.74

⁵³ See Freedom House, 'Our History' <<https://freedomhouse.org/content/our-history>>

composition, or level of economic development. *Freedom in the World* operates from the assumption that freedom for all people is best achieved in liberal democratic societies".⁵⁴ The indicators of 'freedom' perpetuated a normative standard of Western notions of freedom, democratic governance, and justice: structuring what can and cannot be demanded of 'freedom' while refusing to consider particular systemic pressures which could result in a lack of liberty.⁵⁵ Also excluded is recognition that the practices of states outside that state - other international forces - could contribute to any given lack of freedom.

The fleshing out of a measurable dignified and worthy life has gained considerable traction, and have continued to proliferate beyond 9/11, adding the incubation of terror to the list of unfreedoms. These indices remain tied to the notion of statehood, and specifically, provide standards by which states can be judged as to their security-rating. The focus has been roundly fixed upon 'good governance' as opposed to questions of the (in)security of individuals in their everyday existence. The annual Fragile State Index (formerly Failed State) is compiled by the Fund for Peace and published in *Foreign Policy* since 2005. This series of indicators has been built upon a "conflict assessment framework" which is designed to determine a state's vulnerability to collapse or conflict, measuring pre-, active, and post-conflict situations. Reminiscent of the 'New Wars' thesis, central in the presentation of underdevelopment as dangerous, this framing inherently links conflict to the phenomena of state failure, or fragility. The target audience of this annual index is the policy-making community, contributing to their understanding of the integrity of states in particular regions, as well as the stability and adaptability of populations. The methodology attests to the reference to prediction and scientific calculation in preemptive, and hopefully preventing, state collapse: "by identifying the most salient pressures within a country, it creates the opportunity for deeper analysis and planning by policy makers and practitioners alike to strengthen each state's resiliency".⁵⁶ Each of the 178 countries assessed are ranked according to 12 indicators which are categorised into four themes: cohesion, economic, political, and social. The indices of the calculation are designed to impart a veneer of scientific neutrality, producing aggregated scores for each country, that are assessed according to quantitative and qualitative data, as well as expert validation.

Geared toward the broader promotion of human life, but explicitly through the stabilising of the state, the Millennium Development Goals, as outlined in September 2000 and given the deadline of 2015 (found to be severely wanting), are grounded in human rights, which provide an overarching discourse and understanding of the pathway to development. The aim of development as articulated by the UN has witnessed a shift in emphasis, from industrialisation and modernisation, toward the realisation of human rights through the advancement of state-governance, the millennium goals are explicitly

⁵⁴ Freedom House, *Freedom in the World 2018: Democracy in Crisis*, 'Methodology' <<https://freedomhouse.org/report/methodology-freedom-world-2018>>

⁵⁵ Homolar also notes the "large number of well-known methodological problems" which raises questions about the subjectivity of the scores assigned and the lack of rigour in the data compilation process" in 'Human Security Benchmarks' p.857

⁵⁶ See Fund for Peace, *Fragile State Index*, 'Methodology' (2017) <<http://fundforpeace.org/fsi/methodology/>>

conceived at the country level. The plight of poverty has become increasingly linked to the level of human rights enjoyed.⁵⁷ Kofi Annan drew attention to the heterogeneity of governance of those peripheral populations, "the world's poorest", in the assertion that the Millennium Development Goals had become "globally accepted benchmarks of broader progress embraced by donors, developing countries, civil society and major development institutions alike"⁵⁸. The assumed neutrality of benchmarking effaces any hierarchised understanding of international society, and racialised exclusion of those populations targeted for pedagogical, developmental, and humanitarian practices, even when this violence becomes apparent with the question of (humanitarian) intervention. Further, the assumption of 'progress' references this liberal humanist ideal of a universal progression, where the human is taken as an unproblematic category of understanding and site of intervention. In contrast to a transnational imagining, it would appear the enlightenment ideal of the state as constituted through the social contract is being pursued as the common sensical pathway to good governance. Much like the country-reports provided to the State Department, such means of reporting ties human rights enforcement to the nation-state; through the use of benchmarking, the regime type of the nation in question is increasingly implicated in the ability to provide such human rights, and therefore, human security. Due to the interdependencies sketched out in human security, the interest in the domestic implications of violations increasingly took on an international concern, in that the interdependent threat-scape translated internal disruptions to potential instigator's of risky and unsafe circulations of refugees, terrorism, disease, crime, or war. The human in this logic is the individual forsaking some personal liberty for the security of the state, and with this security the opportunity to pursue personal betterment, such as education and the accumulation of property, free from the dangers of the Hobbesian 'state of nature'. Such a human-ness is bounded to a liberal conception of freedom. With the continued state-centricity as provider of security, the question of 'responsibility' when this service is not provided has proved problematic for the human security community, as it has witnessed a movement from preventative measures toward the advocation of (selective) intervention.

Responsibility to Protect: Intervention

The shift from preventive measures - with all the difficulties of measuring that which could-have-transpired - toward intervention found articulation in the well-known report, the 'Responsibility to Protect' (R2P). The International Commission on Intervention and State Sovereignty (ICISS), established by the UN, published the report just before 9/11, but it remains a prominent - while contested - strain of international discourse, with the endorsement of both Kofi Annan and Ban Ki Moon. As an exploration of the duties of state sovereignty, the commission found the contemporary nation state as bound to the security

⁵⁷ United Nations Development Program, 'Millennium Development Goals'
http://www.undp.org/content/undp/en/home/sdgoverview/mdg_goals.html >

⁵⁸ UN General Assembly, *In Larger Freedom*, p.10

of both their own peoples as well as to the wider international community. Nevertheless, the 'value' of the state to the conceptualisation of the international is placed at the forefront, by underlining that "the Charter of the United Nations seeks to protect all States, not because they are intrinsically good but because they are necessary to achieve the dignity, justice, worth and safety of their citizens".⁵⁹ Attempting to shift the parameters of the sovereignty-intervention debate, the report includes a section on human rights - understood as fundamentally secured through national law and practice, within a wider international culture of accountability - as well as human security as the protection of the most vulnerable: by advocating for the recognition of a 'responsibility to protect'. A critical gap is referenced in the report between the suffering and needs that are being felt in the real world, that "codified instruments and modalities for managing world order".⁶⁰ This neo-Kantian cosmopolitanism remains tied to the institutionalisation of sovereignty, to the claiming of a sovereign right, but a right that is conditional, although these conditions are imposed by one group upon another.

The move toward responsibility suggests a form of 'rescue', a moment of decisive action for the good of those victims who cannot depend upon the rights afforded through citizenship, but must call upon a trans-national framework of protection. Responsibility also entails obligation, one that is called upon through the ties of humanity. Indeed, the report itself attempts to sanitise the militarised language of 'intervention':

"There is a growing recognition that the issue is not the 'right to intervene' of any State, but the 'responsibility to protect' of every State when it comes to people suffering from avoidable catastrophe - mass murder and rape, ethnic cleansing by forcible expulsion and terror, and deliberate starvation and exposure to disease".⁶¹ The reference to 'avoidable' appears as a nod toward the (preferred) preventive action, those catastrophes that have not been restrained through process of development and human rights promotion - but which presumably could have been. Intervention is portrayed as the 'last resort' use of force in pacifying potentially explosive situations, envisioning a "continuum involving prevention, response to violence, if necessary, and rebuilding shattered societies".⁶² Re-entry into international society is envisioned within such a deployment, thus re-gaining the sovereign right. Within the logics of preventive action, the focus appears to be upon a strategy of 'assistance', whereby agency is shared between both actors in reaching secure-status; in the framework of responsibility to protect, the agency of the targeted state is fundamentally called into question, and ultimately revoked.

The issue of when and where states fail to fulfil their obligation to their citizens (and when the obligation of the international community therefore kicks in) is considered as that of legitimacy. The knowledge-production inherent in the practices of human security, the

⁵⁹ International Commission on Intervention and State Sovereignty: Gareth Evans, Mohamed Sahnoun, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, 2001) p.17

⁶⁰ ICISS, *Responsibility to Protect*, pp.16-18

⁶¹ ICISS, *Responsibility to Protect*, p.65

⁶² ICISS, *Responsibility to Protect*, p.66

collation of material into categories which define a state as (in)secure, implicitly reproduce the centrality of the nation state as the provider of security: when found to be failing in this obligation, the international community must intervene in order to pacify and reinstall a status quo sovereign, worthy of right. The shift toward an expeditionary intervention force, from an initial focus upon preventive diplomacy and development within the existing civil society, is founded upon the recognition of a security that is universal and interdependent in nature, and which is bestowed by virtue of human-ness. While the violence of (humanitarian) intervention is disproportionately felt by the population-to-be-protection, the logics of humanitarianisms and human rights inject a morality into lethal force where violence is to save vulnerable peoples, and where these checks are easily avoidable from stronger, mainly Western, powers.⁶³ The means of assessing insecurity are productive of a particular type of deviant nation, who pose a threat both domestically and internationally. The security-framing enforces an urgency, and a simple dichotomy - a state is either ensuring security or fostering insecurity.

⁶³ See Chapter 3.2 for a discussion of humanitarian intervention. Also, Douzinas, *Human Rights and Empire*, pp.243-245

Chapter 2.5. The Break in the Universal: Lesser Evils in the New American Century

"I've been in India, Pyle, and I know the harm liberals do. We haven't a liberal party anymore - liberalism's infected all other parties. We are all either liberal conservatives or liberal socialists: we all have a good consciences".
- Graham Greene, *The Quiet American*, p.88

The post-9/11 US human rights record in the Global War on Terror, exposed most viscerally in the leaked pictures of the abuse suffered at Abu Ghraib, has largely been perceived as an exception to the liberal rights discourse, with many academics turning to Schmitt's sovereign or Agamben's bare life in the camp. The Bush Administration certainly deployed the Schmittian discourse that exceptional times demand exceptional measures in their characterisation of the new threat. John Yoo, a professor at the school of law at Berkeley (also a visiting scholar at a prominent neoconservative think tank American Enterprise Institute), is a name synonymous with Bush's re-interpretation of the Geneva Conventions for 'enemy combatants' in the application of 'enhanced interrogation techniques'. Following his employment in the administration as the Deputy Assistant Attorney General from 2001 to 2003, Yoo penned an 'insider's account' of the War on Terror, in which he argued that the laws of war had changed. The laws of war are the "most forceful tools" of a nation to defend their people, but Yoo argued that the "unprecedented appearance" of such a "devastating non-state actor" means the US is "faced with the difficult task of adapting those rules": "To make wise policy choices it is essential to understand the difference between, and the appropriate uses of, war as opposed to criminal prosecution".¹ The premise then is that this is indeed a war, and therefore cannot be viewed through the vision of law enforcement, but the established laws that govern warfare are insufficient to provide security, bound as they are to the assumption of state belligerents.

If the "rules of war" are the "most forceful tools" of defence, the legality of the re-interpretation appears to hinge upon the question of security. This chapter aims to address the question of the relation between rights and security that have been central in debates on the War on Terror, with particular reference to the US use of torture. It is apt to begin with a neoconservative member of the early Bush Administration, as this chapter will explore the neoconservative discourse on human rights and US power both before and after 9/11, while also turning to the interventions of certain liberal scholars who have derided the violent means of the War on Terror as jeopardising democracy - positing a reconfiguration of the liberty-security balance, that leaves the 'ends' intact.

In unsettling the notion of 'exceptionalism', new questions emerge: how has the institutionalisation of a discourse of human rights as a common-sense notion - which

¹ John Yoo, *War by Other Means: An Insider's Account of the War on Terror* (New York: Atlantic Monthly Press, 2006) p.3

denotes the protection of the suffering individual from the excesses of the state - been mobilised in the Global War on Terror? How have human rights been used to legitimate illiberal, and inhumane practices? How does the supposed balance between liberty and security in the provision of individual rights structure how we interrogate abuses from the powerful in a state of 'war'? Joseph Slaughter has referred to the tendency in works on human rights to extol either a triumphalist version, detailing the global normative status as heralding an Age of Rights, or a cautionary tone which highlights the increase in human rights violations across the twentieth century and thus the continued poignancy. Both of these interpretations do reflect parts of the contemporary condition of human rights discourse: the juridical, political, and rhetorical hegemony of human rights on the international stage cannot be denied, nor the continued abuse. However, the triumphalist tones of 'progress' reduce rights to the question of legal normalisation, a celebration of their ultimate banality. This critique is pointed by Slaughter, who argues that such a narrative fails to account for violations as increasingly systematised and institutionalised. In a more troubling tone, "the banalisation of human rights means that violations are often committed in the Orwellian name of human rights themselves, cloaked in the palliative rhetoric of humanitarian intervention, the chivalric defense of women and children, the liberalization of free markets, the capitalist promise of equal opportunity, and the emancipatory causes of freedom and democracy, etc.", ultimately "the discursive victory of human rights means that ours is at once the Age of Human Rights and the Age of Human Rights Abuse".² The privileging of progress and legal institutionalisation as a universal, lifts human rights from the realm of the political, as a set of prescriptions that are imposed from on high. The practice of intervention - including both the wars in Afghanistan and Iraq - as a human rights enforcement measure has received support not only from neoconservative branches of the Bush administration championing the defence of freedom, but also from some prominent, public liberal intellectuals. This chapter will consider the two strains of thought and the reaction to the wars in Afghanistan and Iraq as human rights enforcement: neoconservative branches of the Bush administration as well as prominent public liberal intellectuals to interrogate the relationship of freedom and security.

Neoconservatives: Building a Muscular Liberal Democracy

Neoconservatism has become deeply intertwined with the Bush administration in the popular imagination, as his foreign policy team was composed of a combination of many influential neoconservatives along with realists: the Bush Doctrine which defined the preemptive strategy of democracy promotion that was implemented in the Iraq invasion has been framed as articulating unmistakably neoconservative foreign policy ideals. Defining the nebulous notion of 'neoconservatism' is a dissertation in its own right; lacking a definite framework or doctrine, Irving Kristol rejected any notion that there could be a movement,

² Joseph Slaughter, *Human Rights Inc.: The World Novel, Narrative Form, and International Law* (New York: Fordham University Press, 2007) p.2

referring instead to the 'Neoconservative persuasion'.³ Brought together through their staunch anti-communism, the rise of this assorted collection of disaffected Democrats and liberal hawks is deeply rooted in Cold War struggles, in response to social shifts in the 1950s and 60s which were perceived as generating an anti-American sentiment (a view fuelled by a paranoia that the Soviet threat was gaining). Beginning as an intellectual undercurrent, the distaste for the seemingly overly-pacifist foreign policy stance of the Democrat party, particularly detente, and consternation at the rise of the New Left, reached breaking point in the Carter administration, which propelled many neoconservatives into the Republican party of Reagan.⁴ Former neoconservative Francis Fukuyama refers to the complex and heterogeneous strains of this 'persuasion', which can nonetheless be defined by reference to four key principles that run across neoconservative thinking:

"a concern with democracy, human rights, and more generally the internal politics of states; a belief that U.S. power can be used for moral purposes; a skepticism about the ability of international law and institutions to solve serious security problems; and finally, a view that ambitious social engineering often leads to unexpected consequences and often undermines its own ends".⁵

The reference to 'ambitious social engineering' is a nod toward the importance of the individual against the interfering plans of the government. The neoconservative vision projects American power as not only benign but a force for good in spreading democracy and human rights as a source of security; however, this universalist liberal internationalism was underpinned by a fear of social collapse prompted not only by unruly external elements but also the decline of the internal social, political, and moral order.⁶ This fear is also important in terms of the neoconservative understanding of economics, and the rejection of any articulation of social and economic rights, and certainly of collective claims. Capitalism and democracy were inextricably linked, and the moral cultural and plural tenets of a successful bourgeois society were said to be under threat not only by communism but by reform movements in US society and 'liberal intellectuals': "economics to the neoconservatives was not only a matter of finding methods for production or distributing income, but rather directly linked to the political system of liberal capitalism".⁷ Human rights are irrevocably tied to a specific notion of liberal democracy (capitalist) governance in the neoconservative worldview.

The neoconservative human rights discourse is informed by the moral use of force in

³ Irving Kristol, *The Neoconservative Persuasion: Selected Essays, 1942-2009* (New York: The Free Press, 1995)

⁴ Irving Kristol was also a founder of both neoconservative magazines 'Public Interest', which focused on domestic affairs, and National Interest, commending on foreign policy.

⁵ Francis Fukuyama, *After the Neocons: America at the Crossroads* (London: Profile Books, 2006) pp.4-5; See also Irving Kristol, *Reflections of a Neoconservative: Looking Back, Looking Ahead*, (New York: Basic Books, 1983) pp.231-235

⁶ Brian C. Schmidt, Michael C. Williams, 'The Bush Doctrine an the Iraq War: Neoconservatives Versus Realists' in *Security Studies* Vol. 17 No. 2 (2008) p.21

⁷ Alexander Öhm, *Second Generation Neoconservatism: On the Weekly Standard from its Inception to the Second Death of Neoconservative* (Masters Dissertation - 2007) pp.15-16

<http://lup.lub.lu.se/luur/download?func=downloadFile&recordId=1324639&fileId=1324640>

order to defend the superior values of liberal democratic governance, under attack at first by communism and then (Islamic fundamentalist) terrorism, which have been rendered vulnerable by the turn to cultural relativism. In the neoconservative imaginary, human rights do not spring from the implementation mechanisms and treaties of international institutions that they deem to be mired in squabbling, but are rather tied to the concrete political organisations of liberal democratic states. This is illustrated in a document drafted in 1980 by Charles Fairbanks - 'Designing a New Human Rights Policy for the Reagan Administration' - which argued that 'we have a right to say: what increases the power of the United States and the respect in which they are held is good for human rights'. Separating human rights from issues of legality and imposing a framework of morality, what Guilhot has termed the 'nationalisation' of human rights linked the preservation and promotion of the national interest with the moral goal of extending human rights: the defence of democracy is the defence of human rights.⁸

To illuminate this worldview, it is necessary to consider the political philosophical foundations that informed many influential figures within the movement, which were formulated as a response to the rise of fascism - and the related weakness of liberal democracy - in 1930s Europe. The writings and teaching of German political philosopher Leo Strauss, a professor at the University of Chicago who had fled Nazi Germany as a Jewish refugee, profoundly influenced the development of the modern American conservative movement. The intellectual foundations of Strauss's critique of liberalism were provided by Carl Schmitt's account of the all-pervasive character of the political, defined as friend-enemy relations which establish an unchanging dichotomy rooted within human nature.⁹ As the failings manifest within the Weimar republic informed Schmitt's critique, the rise of totalitarianism in Europe shaped Strauss's prescriptions for constructing a strong democracy within America to combat this threat. Strauss theorised upon what he termed the crisis of liberal democracy, opposing himself to the perceived bankrupt views of the American Political Science Association in the 1960s who he believed had proven unable to tackle the threat of Soviet tyranny. The root of this crisis was attributed to 'the fact that liberalism has abandoned its absolutist basis and is trying to become entirely relativistic'.¹⁰ Liberal democratic values were therefore held as an absolute Good to be sought for all of humanity.

While this was not an intrinsically conservative view, indeed continuing in the spirit of the Wilsonian crusade viewed through a Straussian lens, this principled militarism was the outcome of a value judgement of the necessary action to defend liberalism against the evils of totalitarianism. Thus the spread of democracy was not simply a form of government but

⁸ Nicolas Guilhot, 'Limiting Sovereignty or Producing Governmentality?': Two Human Rights Regimes in U.S. Political Discourse' in *Constellations* Vol. 15 No. 4 (2008) pp.502-516 p.509

⁹ Carl Schmitt, *The Concept of the Political*, trans. Schwab (London: Chicago University Press, 2007). Strauss reviewed *The Concept of the Political* in 1932, identifying to such a degree with the ideas expressed that Schmitt incorporated a number of the objections within this reading into a revision the following year. The foundations of Strauss's critique of liberalism were provided by Schmitt's account of the all-pervasive character of the political which he then further developed within his post at the University of Chicago.

¹⁰ Leo Strauss quoted in James Mann, *Rise of the Vulcans: The History of Bush's War Cabinet*, (London: Penguin Group, 2004) p.26

the promotion of a whole set of ideals and values which were tied to American notions of freedom and the individual. This is the aspect of the political which mobilises the community into a willingness to die for the preservation of their specific way of life.¹¹ The rhetoric of an American mission would be essential to ensure strong political action. Investigating the relations of Strauss and neoconservatism, Gottfried explains that for key figures Berns and Allan Bloom, "American wars have been 'educational experiments' undertaken to force those who stubbornly resist them to embrace our democratic values".¹² This universalism was an explicit rejection of the relativism that neoconservatives levelled was pervading contemporary liberalism and providing justification for belligerence in the extension of inalienable rights and values.

The sense of foreboding was tied to a condemnation of 'modernity' as the era of mass politics and movements which blurred distinctions and hierarchies resulting in a pervasive nihilism. 'Modernity' was completely antithetical to the philosophical underpinnings of Strauss's conceptualisation of the political, and the Straussians continued in the same vein in their perception of postmodernity as the pinnacle of the relativism embedded within modern culture. This was understood as the realisation of the society of Nietzsche's Last Man, devoid of all great individuals, sacrificed in the pursuit of pleasure. Following Hegel's argumentation that history moves west, Strauss viewed America as the scene of a possible modernity that outstripped the confines of these aspects of the modern: outside of history.¹³ To construct a more muscular liberal democratic America able to defend itself against the dangers of tyranny, Strauss argued, political scientists would have to develop an understanding of the existential struggle embodied within the political. A reverence for the classics permeated Strauss's thinking and this would be a recurring theme in the works of his disciples, the so called Straussians. Within the Cold War context, Strauss's ideas found particular currency, augmenting perceptions of American exceptionalism as denoting superiority and universality with the necessity of force to defend and project US values.¹⁴

¹¹ See: Walter Berns, *In Defence of Liberal Democracy*, (Washington: AEI Press, 1984) and *Making Patriots*, (Chicago: Chicago University Press, 2001)

¹² Paul Edward Gottfriend, *Strauss and the Conservative Movement* (Cambridge: Cambridge University Press, 2011) p.118

¹³ Norton, *Strauss and the Politics of American Empire*, pp.117-118; also Aggie Hirst, *Leo Strauss and the Invasion of Iraq* (Oxon: Routledge, 2013) Chapter 1

¹⁴ The application of a Straussian outlook was evidenced in reference to both domestic and foreign policy analyses: notable examples include the polemic against the moral degradation of America by Allan Bloom and the advocacy of a principled militarism to defend liberalism against the evils of totalitarianism in the works of Walter Berns. See: Allan Bloom, *The Closing of the American Mind* (New York: Simon and Schuster, 1987) and Walter Berns, *In Defence of Liberal Democracy* (Washington: AEI Press, 1984) and *Making Patriots* (Chicago: Chicago University Press, 2001) Domestic tensions drove the turn to this Straussian outlook: the battle of ideas taking place on the campuses of Berkeley, Columbia, Chicago, and Cornell Universities throughout the 60s and 70s. The increasing unrest concerning the unpopular Vietnam War and the tensions unleashed by the civil rights movement politicized the campus, allowing further grievances to flourish into action, thus feeding a conservative retaliation. These pressures reached a peak at Cornell in 1969 culminating in violent demonstrations against the frustratingly slow reform for greater civil rights. The Straussian faction felt this to be alienating and an assault upon their academic freedom to write upon the subjects they chose. It was perceived as a dilution of the integrity of the American academy.

While Straussian-inspired thought is not the sole contributory to the intellectual roots of neoconservatism, many of its influential 'academic' polemicists and politicians belong to this group, including Alan Bloom, Harry Jaffa, Harvey Manfield, Paul Wolfowitz, William Kristol, Abram Schulsky, Gary Schmitt, and Francis Fukuyama (who has now distanced himself)¹⁵. The foreign policy goals of the Carter administration brought into sharp focus the conflicts within the Democrat Party with respect to policy concerning the Soviet Union. The self-identified neoconservatives turned their rhetorical talents upon a condemnation of those in power, denouncing the dominance of the 'New Politics' wing of the Democrat party.¹⁶ Irving Kristol, a prominent figure in the 'persuasion' as editor of a number of publications, argued for the construction of a more overtly nationalistic foreign policy free from the wishful thinking that pervaded liberalism. In a 1980 essay entitled *Our Incoherent Foreign Policy*, Kristol maintains that the illusions driving policy decisions toward both the Soviet Union and the Third World had to be redressed as perpetual negotiations produced compromises unfavourable to America.¹⁷ However, Kristol optimistically views within the national consciousness the beginnings of a new nationalism surpassing the isolationist impulses of the past in the pursuit of an active and decisive foreign policy; he understands this new nationalism to be "based on the proposition that the United States should be *the* major power and most influential world power".¹⁸ The assumption of power of the Reagan administration in 1981 appeared as an opportunity to construct a more definitive foreign policy reflecting the new nationalism and determination of American liberal democracy and neoconservatives entered the administration. Wolfowitz was placed in charge of the State Department Policy Planning staff, hiring a new staff who would become "the heart of a new neoconservative network within the foreign policy bureaucracy".¹⁹ Reflecting on the administration, Wolfowitz believed the preservation of the Office of Human Rights in the State Department beyond Carter's term to be a great accomplishment, and argued that democracy and human rights had been incorporated as features of the Reagan foreign policy. Human rights had primarily been a Democrat issue, and upon entering office the Reagan administration dealt with them only insofar as to critique Carter's forays into the Third World²⁰. The reshuffling of the Bureau of Human Rights and Humanitarian Affairs instated many significant neoconservative appointments, as the Assistant Secretary of State was given to Elliot Abrams and then Charles Fairbanks, who were described by Guilhot as 'two 'souls' of the neoconservatives movement (respectively the socialist and the Straussian

¹⁵ Aggie Hirst, *Leo Strauss and the Invasion of Iraq: Encountering the Abyss* (Oxon: Routledge, 2013) pp.55-60

¹⁶ John Ehrman, *Rise of Neoconservatism: Intellectual and Foreign Affairs, 1945-1994* (New Haven: Yale University Press, 1995), p.110

¹⁷ Irving Kristol, *Reflections of a Neoconservative: Looking Back, Looking Ahead*, (New York: Basic Books, 1983) pp.231-235

¹⁸ Irving Kristol, *Reflections of a Neoconservative*, p.245

¹⁹ Mann, *Rise of the Vulcans*, Chapter 7

²⁰ Mann, *Rise of the Vulcans*, p.129; Paul Wolfowitz, 'Statesmanship in the New Century' in *Present Dangers: Crisis and Opportunity in American Foreign and Defense Policy* (ed.) Kagan, Kristol (San Francisco: Encounter Books, 2000)

variants).²¹ One episode in particular is emblematic of the influence of neoconservative thought as it is understood today.

The evolution of neoconservative thinking concerning human rights and democracy promotion and the extent of their influence in Washington was crystallised in the decision to encourage the former ally Philippine President Marcos to relinquish power in 1986. Facing a crisis of legitimacy, the authoritarian dictatorship of Marcos was overtly flouting democracy, forcing the Reagan administration to question the nature of U.S. relations with such regimes. In his position as secretary of state, Shultz persuaded Reagan that ardently supporting allies regardless of their domestic policy in fact undermined the American pursuit of anti-communism.²² The revolutionary ideals of the American constitution would appear illusory, breeding popular resentment and possibly pushing opposition movements into the arms of communism. The withdrawal of support from a dictator - allied to the US - to encourage the construction of a democratic state was a complete break with prior conservative foreign policy. The divergence in the analysis of America's role and the route to security is explored by Mann: "To Kissinger, then, Marcos was above all an ally in America's worldwide struggle for geopolitical advantage; to Wolfowitz, Marcos was a liability in America's worldwide battle on behalf of democratic ideals".²³ The decision to turn from dictatorship to democracy marked a victory for the neoconservative wing of the party, solidifying their influence in foreign policy thought.

During the Clinton administration, in relative absence of the neoconservatives from the halls of power, the Project for the New American Century was founded by the prominent figures William Kristol and Robert Kagan in 1997, as a non-profit educational organisation. The Statement of Principles, released the same year, condemned not only the policies of the Clinton administration, but also the inability of conservatives to propose a coherent and competing strategic vision of the role of the United States worthy of the progression into the new century. Championing a 'Reaganite policy of military strength and moral clarity', they believed that with the US emerging as the dominant power in the aftermath of the Cold War, it was necessary to protect and augment this position, stating: "The history of the 20th century should have taught us that it is important to shape circumstances before crises emerge, and to meet threats before they become dire".²⁴ This statement hints at the preventive posture later assumed under the Bush administration, and indeed many notables of the administration were among the twenty five signatories. In a collection edited by eminent neoconservative thinkers Robert Kagan and William Kristol published in 2000, Wolfowitz outlines four (neoconservative) tenets that should be central in the articulation of US foreign policy: firstly, the strengthening of the "liberal democratic-free market consensus", and a rejection of the "willingness to sacrifice democracy and human rights on

²¹ Guilhot, 'Limiting Sovereignty', p.507

²² Mann, *Rise of the Vulcans*, pp.132-133

²³ Mann, *Rise of the Vulcans*, p.135

²⁴ Project for the New American Century, 'Statement of Principles', 3rd June 1997, <<http://www.newamericancentury.org/statementofprinciples.htm>> [accessed 17/08/2013]

the altar of 'efficiency"'; consolidating the norms of democracy and human rights through alliance systems founded on "a shared vision of human life in the twenty-first century"; then, on to defence, the US must confront rogue states (such as Iraq); all of which are dependent upon the US maintaining a leadership role, "including its military pre-eminence".²⁵ Human rights as liberal democracy and therefore as American, had been placed at the core of neoconservative thought and policy practice at the turn of the century. The election campaign of 2000 which brought George W. Bush to power was concerned primarily with domestic policy issues. There was no indication that the Bush presidency would herald the introduction of a militarily muscular and active foreign policy; indeed, in those occasions where international affairs were mentioned, an affinity for the *Realpolitik* practiced by his father's administration was articulated. Singh notes that "Bush expressly rejected Clintonian humanitarian interventions, peace-keeping missions and 'nation-building' efforts abroad, favouring instead a coolly calculated appraisal of America's vital national interests".²⁶ There was disdain within the Republican Party for what was perceived as a timid foreign policy of global policing under Clinton, detracting from American interests in the international landscape as the world's only superpower. Throughout the campaign, Bush consistently deflected questions concerning his experience in foreign affairs – or lack thereof – by stressing the prestige of his advisers. By the inauguration of the second Bush presidency, the Republicans had held control of the White House for twenty of the prior thirty-two years, enabling such determined individuals to gain practical experience in a number of administrations, traversing differing strategic environments. The collective experience in the offices of power, across administrations, had engendered a host of entanglements and working relationships where, as Mann observes, these figures – christening themselves the Vulcans – were represented "as symbols of continuity and stability".²⁷ It is important to note the political affiliations of the influential members driving the foreign policy of the Bush administration. Singh highlights that while the neoconservatives were highly influential in the construction of the framing of America's relations with the rest of the world, 'none of the central players – Bush, Cheney, Rice, Rumsfeld and Powell – were neoconservatives. All of these were traditional conservatives or American nationalists, heavily influenced by realist conceptions of America's vital interests, skeptical of idealistic blueprints for the world and attentive to power politics and the use of force'.²⁸ The powerful influence of both the realist and neoconservative currents of American domestic politics would have a fundamental effect on the assessment of the new strategic environment and the policy advocated by the second Bush administration to challenge the threat of global terrorist networks.

²⁵ Paul Wolfowitz, 'Statesmanship in the New Century' in *Present Dangers: Crisis and Opportunity in American Foreign and Defense Policy*, ed. Kagan and Kristol (San Francisco: Encounter Books, 2000) pp.333-334

²⁶ Robert Singh, 'The Bush Doctrine' in *The Bush Doctrine and the War on Terrorism: Global Responses, Global Consequences*, ed. Buckley and Singh (Oxon: Routledge, 2006) p.14

²⁷ James Mann, *The Rise of the Vulcans: The History of Bush's War Cabinet*, (London: Penguin Books, 2004) pp. ix-x

²⁸ Singh, 'The Bush Doctrine', p.16

While neoconservativism cannot be considered a mainstream political force, the influence of this school of thought on the human rights discourse of Bush's War on Terror is evident. In the evening after the attack, President Bush gave a televised address to the public introducing the framing of 'good versus evil', the fight against the absolute 'other', which would gain currency in the rhetoric of the Global War on Terror. He reasoned that "America was targeted for attack because we're the brightest beacon for freedom and opportunity in the world", juxtaposing this vision of "the land of the free" with the events of the day, stating: "our nation saw evil, the very worst of human nature".²⁹ Bush argued that "the terrible tragedies of September 11 serve as a grievous reminder that the enemies of freedom do not respect or value individual human rights. Their brutal attacks were an attack on these very rights".³⁰ The attack on the US was framed as an attack on freedom itself, the nation being the depicted as the manifestation of rights. The human rights rhetoric deployed by the Bush presidency drew upon the mythology of American exceptionalism, describing the mission of American democracy as tied to the promotion of human rights, where "history, destiny, freedom, and human rights were all treated as implying one another - evoking one meant evoking the whole cluster of ideas".³¹ The moral obligation of the US was therefore to tackle the inhumane and chaotic violence of the terrorist Other. From the outset therefore, the Bush administration presented the event in moralistic terms, creating a narrative whereby good must triumph in an existential battle against evil. The denigrated exceptional powers that were introduced in the Patriot Act in October 2001, has resulted in the institutionalisation of illiberal practices in the name of democracy in the subsequent years of the War on Terror.³² Typifying the attitude of this 'new era', deputy secretary of state Armitage requested a meeting with the head of Pakistan's Inter-Services Intelligence to question the nature of the country's relationship with the Taliban, who had been held responsible for harbouring the terrorist group al-Qaeda. He presented the representative with a simple choice between siding with America, or declaring themselves as against them, negating all cultural nuances and complexities by declaring that "history starts today".³³ This was the dichotomised position stressed consistently by the Bush administration in the following years, heralding the dawn of a new era in international relations without accommodation for those who would not subscribe to the American crusade against the evils of terrorism. This ultimatum was posed to the world: "Every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists".³⁴ A frankly simplistic conception, this explicitly demanded nations pledge

²⁹ George. W. Bush quoted in Michael J. Butler, *Selling a Just War: Framing, Legitimacy, and U.S. Military Intervention*, (Basingstoke: Palgrave MacMillan, 2012) p.183

³⁰ Bush quoted in Mary E. Stuckey, Joshua R. Ritter. 'George Bush, <Human Rights> and American Democracy' in *Presidential Studies Quarterly* Vol.37 No.4 (December 2007) p.655

³¹ Stuckey, Ritter, 'George Bush, <Human Rights>' p.655

³² For a discussion of the implementation of a state of exception within the United States following 9/11, see: David Abraham, 'The Bush Regime From Elections to Detentions: A Moral Economy of Carl Schmitt and Human Rights' *University of Miami Legal Studies Research Paper* (May 2007) No. 2007-20

³³ Mann, *Rise of the Vulcans*, pp.298-299

³⁴ George W. Bush, 'Address to a Joint Session of Congress and the American People' Washington DC (20

allegiance to either the American conception of civilisation or the implied barbarism of their terrorist counterpart.

The terrorist threat as painted by those of a neoconservative persuasion could tick all the boxes: borne of illiberal regimes; an inherently immoral and evil presence; and a global, existential threat to liberal democracy - and the American national interest - that would not comply with international law, and therefore could not be ignored or deterred through diplomacy. The road to the Iraq war was one that had been laid out previously, as Dunmire explores the historical and motivational contexts for the controversial new strategy direction undertaken by the US, describing the National Security Strategy of 2002 as the culmination of 'The Plan': this ominous title refers to a foreign relations strategy developed throughout the nineties in documents "ghost written by Colin Powell and Paul Wolfowitz which represents Dick Cheney's 'masterwork'".³⁵ First articulated in the drafted 'Defense Policy Guidance' of 1992, the proposed vision was one of a world dominated by an insurmountable American superpower, ensuring there could be no possible challenge to this power following the loss of the singular, absolute rival manifest in the Soviet Union. To prevent the emergence of a new rival it was understood that America should undertake leadership in the creation of a new world order, securing and propagating American interests and values; and be prepared even to undertake unilateral military action if this was deemed necessary. This was a demand for a preventive position in the area of international relations to retain American hegemony. However, the document caused controversy when leaked to the media, prompting a re-drafting.³⁶ Before turning to the 'extraordinary circumstances' of a war fought for freedom and values legitimising the use of torture, to flesh out the intellectual landscape I will consider some of the critique that was raised by liberal intellectuals in the US defence of democracy.

Liberalism against Terrorism: The Security-Liberty Regime

Michael Ignatieff is one of the most prominent public liberal intellectuals and advocates of human rights; a former Canadian politician and director of the Carr Center for Human Rights Policy at Harvard, Ignatieff has written several notable texts on human rights and fundamental freedoms from a biography of Isiah Berlin to those concerned with US foreign policy practice. The Carr Centre has been a focal point for the endorsement of US humanitarian intervention by human rights scholars, as Samantha Power served as the founding director from 1998 to 2002. Beginning her career as a journalist, and cutting her teeth as a war correspondent in the Yugoslav Wars of the 1990s, Power was a vocal critic of the Clinton administration's hesitance to act against the Serbs and in the failure to intervene

December 2001)

³⁵ Patricia L. Dunmire, "'9/11 Changed Everything': An Intertextual Analysis of the Bush Doctrine' in *Discourse & Society*, Vol.20/2 (March 2009) p.206

³⁶ For explanations of key exceptions of the document see

<<http://www.pbs.org/wgbh/pages/frontline/shows/iraq/etc/wolf.html>> [accessed 30/08/2013] and Dunmire, 'Intertextual Analysis of the Bush Doctrine' pp.211-212

in Rwanda, and in 2002 released the Pulitzer-prize winning *A Problem from Hell: America and the Age of Genocide* which placed the failures to intervene in the 1990s in the historical context of the US response to genocide. While Power did not support the invasion of Iraq on the grounds of potential "destabilizing consequences", she did approvingly cite both prominent neoconservatives Paul Wolfowitz and Richard Perle who had advocated unilateralist intervention in Bosnia and Kosovo, noting the UN peace-keeping debacles across the 1990s³⁷. This critique of the inaction engendered through multilateralism is addressed in a piece by Stephen Holmes for the London Review of Books, who notes the legacy bequeathed to the Bush administration, the advocates of humanitarian intervention "have helped repopularise the idea of America as a potentially benign imperial power. They have breathed new life into old messianic fantasies. And they have suggested strongly that America is shirking its moral responsibility when it refuses to venture abroad in search of monsters to destroy".³⁸ The intervener is rendered as saviour. In painting humanitarian intervention solely as a force for good, as an obligation, inaction is demonised while obscuring the great pains that have been caused by intervening forces, good intentions or otherwise.

Power became one of the most trusted advisors in Obama's foreign policy team, first installed in the National Security Council as the Senior Director for Multilateral Affairs and then appointed as the US representative to the UN. Her appointment was lauded by the executive director of Human Rights Watch who commented that "she is clearly the foremost voice for human rights within the White House and she has Obama's ear"³⁹. The installation of Power into the top foreign policy making circles created a coalition of sorts between hawks across the parties, by advocating intervention in both Syria and Libya.⁴⁰ The protection of human rights was tied unquestioningly to US military force, immorality being situated as inaction in the face of horror. Liberal war is perceived as fundamentally limited by morality, and the inclusion of and endorsement from liberal human rights scholars and advocates limits both the understanding of human rights (as protection from tyrants) as well as the subjects of rights (of the victim, the abuser, and the saviour).⁴¹ The 2007 edition of the Marine Corps Counterinsurgency Manual, inspired by the experience of the British and French colonial powers, laid out a completely new strategy for the war in Iraq - which the US were losing badly - was introduced by Ignatoff's successor to the Carr directorship, Sarah Sewell. The Carr Center were directly involved in revising the strategy with General David Patreaus, and Sewell notes the place of the intellectual in helping to navigate the nation through morally trying times: she points to the philosopher Michael Walzer's study to

³⁷ Samantha Power, *A Problem from Hell: America and the Age of Genocide* (New York: Harper Perennial, 2007)

³⁸ Stephen Holmes, 'Looking in Away' in *London Review of Books* Vol.24 No.22 (14 November 2002) pp.3-8

³⁹ 'Still Crusading but Now on the Inside' *New York Times*

<<https://www.nytimes.com/2011/03/30/world/30power.html>>

⁴⁰ <<https://theweek.com/articles/462669/samantha-power-crusader-human-rights>>

and <<https://www.newyorker.com/magazine/2014/12/22/land-possible>>

⁴¹ Make Mutua, 'Savages, Victims, and Saviors: The Metaphor of Human Rights' in *Harvard International Law Journal* Vol. 42, No. 1 (2001) pp. 201-245

"recalibrate American thinking about war" in the aftermath of Vietnam, tackling the *jus ad bellum* and *jus in bello* questions of war - fighting well for just causes - which Sewell argues "restored our ability to think clearly about the war - including its legitimacy and its demands".⁴² This process of 'recalibration' involves the liberal intellectual in the state pursuit of security: the critical perspective does not question the underpinning logics, merely the means to acquire these ends, therefore justifying violence in the continued pursuit of peace.⁴³ The intellectual interventions that will be explored here, seek to reinstate a fundamentally liberal conception of human rights, where liberty - understood as freedom of choice and the minimal interruptions of governmental power in the life of the individual - is believed to hold the excesses of 'security' in check.

Diagnosing the emergence of a new "principle contradiction" in world politics, the political philosopher Peter Hallward notes the convergence of imperial intervention and "ever more draconian policies of neoliberal adjustment" in spaces such as Haiti and Iraq, with "newly resilient forms of resistance and critique".⁴⁴ The struggle that this movement poses to political philosophy has been dominated by a liberal-democratic strategy of 'cautious reformism': informed by the teleological notion of historical process as largely shaped by 'rational improvement', which largely performs a rearticulation of the status quo.⁴⁵ While from a stance of 'critique', the liberal intelligentsia's engagement with the liberty-security regime performs powerful legitimising functions, prefaced on the stance of human rights advocacy. Through reference to four liberal intellectuals - Michael Ignatieff, Richard Rorty, Ronald Dworkins, and Michael Walzer - Jackson argues that each of these writers has diagnosed a shift in the equilibrium that exists between liberty and security in the US launching of the 'War on Terror', a stance that is fundamentally rooted in a depoliticisation of human rights as liberty. By simply negotiating the relative value placed upon liberty and security, "the liberal intellectual is in fact continually occupied in a process of helping the state to 'rethink' its approach to security ultimately allowing it to continually present violence and war in the guise of peace".⁴⁶ The post-9/11 response of the 'excesses' of the US government of both Rorty and Ignatieff can be read in relation to their conceptualisations of liberal democratic human rights.

Richard Rorty responded, just a year after 9/11 and in the interim before the invasion of Iraq, to the draconian forces that had been unleashed in US society, fearing the overarching power of the president and the cowardice of Congress. Attacking the Republican Party, he accused them of introducing an Orwellian national security state, as enacting the "permanent militarization of the state" in their own interest.⁴⁷ The novel threat posed by terrorist networks defy categorisation, between criminal and enemy combatants, not

⁴² Sarah Sewell, 'Introduction' in US Army p.xxii

⁴³ Will Jackson, 'Liberal Intellectuals and the Politics of Security' in *Anti-Security* (ed.) Neocleous, Rigakos (Red Quill Books, 2001) p.177

⁴⁴ Peter Hallward, 'The politics of Prescription' in *South Atlantic Quarterly* Vol. 104 No. 4 (2006) p.769

⁴⁵ Hallward, 'The Politics of Prescription', pp.769-770

⁴⁶ Jackson, 'Liberal Intellectuals and the Politics of Security', p.177

⁴⁷ Richard Rorty, 'Fighting Terrorism with Democracy' in *The Nation* (3 October 2002)

subject to the criminal laws of their own 'rogue states', able to strike America across borders. The major danger posed, is that to the "moral gains - the increases in political freedom and in social justice" that the West has made in the last two centuries, if the rule of law and democratic principles are not upheld.⁴⁸ Rorty's response to the 2002 security agenda - between the invasions of Afghanistan and Iraq - is focused upon the permanent war footing which is cloaked in secrecy, strengthening the power of institutions, and marginalising the judiciary, culminating in a post-democracy.⁴⁹ As Jackson notes, the notion of the balance as inherent to liberalism is implicit in Rorty's work: this is highlighted through reference to a piece written before the War on Terror, where Rorty conceptualised an anti-foundationalist stance which rejects the "metaphysical meta-narratives" of rationality and universalism, to pose a reformed philosophical project of a "human rights culture".⁵⁰

Opening with a horrific account of brutality committed by the Serbs against Bosnian Muslims, Rorty notes the processes of dehumanisation that occur across ethnic boundaries, and that have been historically present in the exclusion of Jewish people, African Americans, LGBT+ people, and women. In the attempts to impose a human rights morality, grounded in the liberal tradition, Rorty notes that appeals to a shared humanity arrived at through "reason" and "rationality" have proved ineffective and unmoving, arguing rather for a programme of sentimental education. In Rorty's reading of a potted history of Western political philosophy, the foundationalist notion of rights rooted in a transcendental and ahistorical human nature must be supplanted by an education that will acquaint the perpetrator of abuse with the pain and suffering of their absolute Other. Those who are "relatively untouched by the European Enlightenment" do not regard themselves as part of wider humanity, but rather their identity is based in who they are *not*: "it is crucial for their sense of who they are that they are *not* an infidel, *not* a queer, *not* a woman, *not* an untouchable".⁵¹ In addressing the human rights abuse issues of the day, Rorty notes that it would be more fitting to think of the perpetrators as 'deprived' - not simply of moral knowledge - but of both security and sympathy. Security is defined as "conditions of life sufficiently risk-free as to make one's difference from others inessential to one's self-respect, one's sense of worth", which is enjoyed in the North American and European contexts of the human rights culture, concluding that insecurity and precarity desensitises, as "security and sympathy go together, for the same reasons that peace and economic productivity go together".⁵² It is unclear as to how a shared capacity for sentimentality can avoid the charge of universalism which Rorty has railed against as condescending, where the ability to engender the 'correct' response to human suffering is predicated upon political and economic security that underpin the „human rights culture".⁵³ Security is necessary for

⁴⁸ Rorty, 'Fighting Terrorism'

⁴⁹ Richard Rorty, 'Post-Democracy' in *London Review of Books* Vol. 26 No. 7 (April 2004)

⁵⁰ Patrick Hayden, 'Sentimentality and Human Rights: Critical Remarks on Rorty' in *Philosophy in the Contemporary World* Vol. 6 No. 3 (1999) pp.59-66

⁵¹ Richard Rorty, 'Human Rights, Rationality, and Sentimentality' in *Truth and Progress* p.126

⁵² Rorty, 'Human Rights, Rationality, and Sentimentality', p.128

⁵³ Hayden, 'Sentimentality and Human Rights', p.61

the fostering of sympathy: security unambiguously tied to the liberal democratic state form. The depoliticised account of liberal democratic governance as conducive to a security that enables the sympathy necessary for human rights, Rorty makes no attempt to address the disproportion in the 'conditions of life', rather focused upon the neutralisation of conflict through tutelage.⁵⁴

Ignatieff provides such a potent example as he has also been a vocal supporter and defender of the War on Terror, arguing that both Afghanistan and Iraq were interventions for the cause of human rights. In the introduction to the edited collection *American Exceptionalism and Human Rights*, Ignatieff remarks on the contradictory relationship of the US with human rights, as a combination of leadership and resistance. Positing US foreign policy as championing the "promotion of human rights, market freedom, and political democracy" he lists factors including the US government programs focused toward women's rights and religious freedom, the wealth of human rights organisations, spreading "democracy and freedom through the Arab and Muslim worlds", as well as the toppling of the tyrants Milosevic and Hussein. In the external projection, rights, capital, and democracy constitute the freedom to be promoted and defended. However, this foreign stance is combined with the failure to ratify conventions and to submit to the International Criminal Court and the support of dictatorial, murderous regimes. What Ignatieff highlights as unique is not hypocrisy, but the simultaneous role as both a driving force and a defector.⁵⁵ Ignatieff links human rights with democracy and market capitalism without any further explanation - these are simply assumed as the inherent state conditions for a rights-respecting polity, common sense. This dual role is again situated in the nation, as fundamental to the functioning of human rights. In the 'vernacularization' of rights, he posits that if they had not transcended universal doctrines and been rooted in the national traditions of constitution, flag, religion, culture, and history, they would not have much meaning at all: in fact, the contradictions said to exist between universal standards and national rights are not as grand as they have been made out. While arguing that 'American exceptionalism lays bare the relation between the national and the universal in the rights culture of all states that have constitutional regimes of liberty', he exposes the underlying assumptions.⁵⁶ This fundamental notion of liberty then contours how decisions are made 'at the margins'. Ultimately, exceptionalism is fine for those who have the *right* kind of liberty.

Ignatieff had been a vocal advocate of the need for humanitarian intervention in cases of urgent and critical human suffering: in the 1999-2000 series of Tanner Lectures on Human Values, his articulation of human rights places their universality in the limited goals of freedom from oppression, from which a dignified life can flourish. In response to the commentators pieces published after the work, Ignatieff frames what he understands to be a practical and 'minimalist' human rights regime:

⁵⁴ See: Hayden, 'Sentimentality and Human Rights'; Jackson, 'Liberal Intellectuals', p.177

⁵⁵ Michael Ignatieff, 'Introduction' in *American Exceptionalism and Human Rights* (ed.) Ignatieff (Princeton: Princeton University Press, 2005) pp.1-2

⁵⁶ Ignatieff, 'Introduction' to *American Exceptionalism*, p.26

"What should our goals as believers in human rights be? Here my slogan would be the title of the justly famous essay by my old teacher, Judith Shklar, 'Putting Cruelty First'. We may not be able to create democracies or constitutes. Liberal freedom [in some societies] may be some way off. But we could do more than we do to stop unmerited suffering and gross physical cruelty. That I take to be the elemental priority of all human rights activism: to stop torture, beatings, killings, rape, and assault and to improve, as best we can, the security of ordinary people. My minimalism is not strategic at all. It is the most we can hope for".⁵⁷

Delivered just a few years before Ignatieff would be an apologist for the 'lesser evils' in fighting terrorism, the 'minimalist' human rights agenda focuses upon the alleviation of suffering, while equating 'liberal freedom' with democratic governance, framed in a language of effectivity. To hope for more would be utopian, therefore Ignatieff argues it is best to focus directly upon the individual victims, bearing the hardships in their everyday lives. Ignatieff defines the universality of human rights through this limited, negative goal in the empowering of the individual, human rights help "people to help themselves": fundamentally, human rights is a "systematic agenda of 'negative liberty', a tool kit against oppression, a tool kit that individuals must be free to use as they see fit within the broader frame of cultural and religious beliefs that they live by".⁵⁸ The agency of the individual is thus said to empower victims to protect themselves, and to choose their own causes for which they will live or die. This does not address situations of intervention, such as in Iraq, where an external actor replaces the system of power, and further, Wendy Brown notes that empowerment is ultimately defined according to liberal individualism, without recourse to "the historical, political, and economic constraints in which this choice occurs - agency is defined as choice within these constraints and thus largely codifies these constraints".⁵⁹ The 'minimalist' agenda that is pursued, while denoting the spaces for cultural diversity in the limited goals of political and civil liberty, fundamentally tie human rights to the state, and specifically to the liberal democratic state.

The insistence upon suffering, and the empowerment of agency, informs a rejection of any expansion of rights beyond this 'minimal' necessity. Having articulated a negative framework of rights - thus negating any positive rights to social welfare or to food - Ignatieff claims that fostering the capacity of the individual to act through the protection of civil and political rights can actually function as a stimulant to economic and social security. Any action to supplement economic and social provisions are derided as a failure to recognise

⁵⁷ Michael Ignatieff, *Human Rights as Politics and Idolatry* (Princeton: Princeton University Press, 2001) pp.173-174

⁵⁸ Ignatieff, *Human Rights as politics and Idolatry*, pp.56-57. The construct of 'negative liberty' as theorised by Isiah Berlin is broadly understood as the freedom to live without interference, as long as these choices do not harm others. As a Berlin scholar, Ignatieff had noted elsewhere that the essay 'Positive and Negative Freedom' was informed by a scepticism toward Third World nationalism. The issue of self determination was addressed by Ignatieff in this text, using the Kurds and East Timorese as examples, he concludes that the promotion of 'ethnic self-determination' can shatter the stability of states, ultimately necessary for human rights.

⁵⁹ Wendy Brown, "The Most We Can Hope For...": Human Rights and the Politics of Fatalism' in *South Atlantic Quarterly* Vol. 103 No. 2/3 (Spring/Summer 2004) p.455

the priority of the individual above the provision of 'collective rights': while individual without collective rights may be difficult to navigate, collective without individual descends into tyranny. Stressing a pragmatic approach, any 'inflation of rights' to the merely desirable, would in fact erode the legitimacy of rights entirely, as civil and political rights are the bedrock for economic development. While access to food and shelter may be seen as more than simply desirable, indeed "necessary to the enjoyment of any life whatsoever", this 'defensible core' is limited. Referencing Amartya Sen that "no substantial famine has ever occurred [...] in any country with a democratic form of government and a relatively free press", he concludes that, against calls for a 'right to development', "civil and political rights are both an essential motor of economic development in themselves and also a critical guarantee against coercive government schemes and projects".⁶⁰ Failing to interrogate the causal relationship between famine and a free press, he argues that freedom is development. The 'defensible core' then falls to the classic liberal framework: "without the freedom to articulate and express political opinions, without freedom of speech and assembly, together with freedom of property, agents cannot organize themselves to struggle for social and economic security".⁶¹ Thus, the freedom of the market, and the right to attain property, will ultimately be the arbiter of the social and economic security of the empowered individual. By placing the individual against the oppressive power of the state, the empowered individual is master of their own fate, disregarding the myriad constraints that are inherent within the global relations of the 'free market'.

By framing rights as solely against oppressive power, the empowered individual thus taking power from above, Ignatieff fails to recognise that the proliferation of rights in Western societies has not decreased the power of the state or translated into a collective power to determine the national - or individual - economic destiny. Rights do not exist solely as a defence against power, but participate in the operation of power. The empowerment/disempowerment of rights can be seen in the subject produced: there is no merely reductive action, this reduction is productive of the political subjects and possibilities available.⁶² The discourse of human rights as the protection of vulnerable individuals from the abuses of power, creates the oppressed subject - in need of saving - as well as the means of protection - agency of autonomy - and a certain kind of abuser - the inhumane state. A defence of the liberal status quo, rights then cannot fundamentally challenge the state structure - as these are the arbiters of rights - or propose any alternatives to the system of the free market - as civil and political freedom will enable free choice and competition to flourish. As a common sense, the ordering practices and liberal humanist assumptions are effaced through reference to pragmatism, where hoping for more would ultimately lead to tyranny and unfreedom. This conception of liberty would inform his response to Bush strategy in fighting terrorism.

The challenge of the War on Terror that has been diagnosed by many liberal intellectuals

⁶⁰ Ignatieff, *Human Rights as Politics and Idolatry*, p.90

⁶¹ Ignatieff, *Human Rights as Politics and Idolatry*, p.90

⁶² Brown, 'The Most We Can Hope For', pp.459-460

is that of the balancing act between liberty and security: how to fight the War on Terror without devolving into a national security state of fear and surveillance, ultimately losing the very freedom that they are fighting to defend: "security is as much a right as liberty, but civil libertarians haven't wanted to ask which freedoms we might have to trade in order to keep secure".⁶³ While critiquing many of the practices introduced after 9/11 as excesses that were not subject to a proper system of review, the underlying premise of the argument is that security must be limited by the checks and balances of liberty.⁶⁴ Liberalism is based upon the premise of removing violence from the life of its citizens, and terrorism unsettles this claim, therefore while the waging of war is both legitimate and necessary, it must be restrained. Ignatieff notes that while the use of violence may be required - "it may also require coercion, secrecy, deception, even violation of rights" - it must be restrained, lest the war be lost in the demise of democracy and freedom.⁶⁵ Ignatieff proposes the necessity of 'lesser evils' in solving the ethical conundrum, addressing the issues of targeted assassinations, preventive detention, coercive interrogations, and preemptive war. Such action is justified in protection of liberty, but only insofar as it is constrained within a liberal framework of security. The constraints placed upon the US with regard to targeted assassinations mirror those that the Obama Administration applied to drones - last resort, attempt to capture, precision to minimise "collateral damage" - and while Ignatieff is expressly against the use of torture that was already being carried out, he advocates for the use of "permissible duress".⁶⁶ The thrust of the argument, is that the rule of law cannot be applied against the barbaric and unrestrained enemy posed by the terrorist. The terrorist to Ignatieff is fundamentally apolitical, a "form of politics that aims at the death of politics itself".⁶⁷ The terrorist will not be compelled to discuss shared values and reach a compromise, and therefore is understood to reject politics entirely.

Through a human rights lens, Ignatieff argues that fanatical and inhumane violence through reference to God is inherently nihilistic, and the terrorists have 'hijacked' religious text in order to create a jihadi death cult without a defined political aim beyond sacrifice and martyrdom.⁶⁸ This lack of shared reciprocity compels 'lesser evils', as "there is no ethical code", Ignatieff reasons, al-Qaeda "will systematically exploit every ethical restraint that we believe in".⁶⁹ In discussing the dangers of a Military Orientalism which fetishizes the belligerence of the orientalised Other, Parker presents the suicide methods that are deployed by al-Qaeda, and historically against the US by Imperial Japan, are understood as rooted in an inherently alien culture, where the individual is sacrificed in a moment of martyrdom for a collective cultural glory. This dichotomy between a cultural nihilism and

⁶³ Michael Ignatieff, 'Lesser Evils' in *The New York Times* (4 May 2004)

⁶⁴ he particularly critiques the huge remit of the patriot act and the failure of congress to hold the president to account. detention and just calling people combatants etc.

⁶⁵ Michael Ignatieff, *The Lesser Evil: Politics Ethics in an Age of Terror* (Princeton: Princeton University Press, 2004)

⁶⁶ Ignatieff, *The Lesser Evil*

⁶⁷ Ignatieff, *The Lesser Evil*, p.111

⁶⁸ Ignatieff, *The Lesser Evil*. See the Chapter 'The Temptations of Nihilism'.

⁶⁹ Ignatieff, *The Lesser Evil*, Introduction

the rational humanism of the US, fails to recognise the enemy as a strategic actor that is engaged in a conflict against a disproportionately more powerful opponent. Engaging in a discourse that creates monstrous and mystical Others, offers no clarity in understanding the practice which, "far from being a form of expressive violence for its own sake, it is an instrument of calculated psychological warfare", and has in fact been used across various movements of diverse motivations, including "secular Tamil Tigers, Russian anarchists, Syrian nationalist-socialists, Lebanese Christians and Communists, and the Marxist-Nationalist Kurdistan Worker's Party".⁷⁰ Mystifying the enemy as powered by a fanatical, inhumane zeal, depoliticises their struggle, as their failure to work within the confines of liberal terms of debate, diplomacy, and war excludes any recognition. Displacing political aims to cultural quirks (or failings), relies upon racialised and orientalised assumptions of the Other. It is against this absolute evil that conflict is necessary, but must be redefined, as a more humane, and lesser response.

These critiques challenge the War on Terror only as means to sustain the status quo of liberal democratic and free-market dominance, where the excesses of violence must be contained through recourse to the centrality of 'freedom'. While decrying some of the means that have been deployed, the existential stakes compounded the delegitimising of any Leftist critique of the liberal understanding of liberty, or any expansion in the meaning of rights. Any naysayer in the severity of the threat, accused of 'downplaying' the statistical likelihood of a (Islamic fundamentalist) terror attack, is derided by Ignatieff as a conspiracy theorist or as simply not taking seriously the signs in front of them: "In the Spanish elections in March, we may have had a portent of what's ahead: a terrorist gang trying to intimidate voters into altering the results of a political election".⁷¹ From the perspective of an existential threat - if our very liberty is threatened - critique is marginalised as indulgent and redundant: any critic is scolded with the dismissal that now is the not time to be engaging about 'frivolous' discussion about an 'untenable' rights programme. Jackson notes this delegitimisation of the left across the liberal intellectuals studies: Michael Walzer endorsed the *Euston Manifesto*, which proposed a post-9/11 'decent', post-ideological left, able to reach out to others committed to the defence of democracy; Rorty, writing in the 1990s, proposed a reformation of the left to break the Marxist hold and recognise the similarities of the left and liberal position, transcending differences in accepting the self-evidence of capital. Symptomatic of the liberal response to terrorism, Jackson argues this depoliticised security has informed the negation of any left critique of intervention as terrorist sympathising, as a similarly nihilist position to the 'apocalyptic nihilists' they are fighting.⁷² Any attempt to engage with the politics of security or the politics of liberty is maligned as a danger to both. Returning to Slaughter's reflection on the banalization of both human rights law and human rights abuse, while torture constituted a step too far, the defence of human

⁷⁰ Patrick Porter, *Military Orientalism: Eastern War through Western Eyes* (Oxford: Oxford University Press, 2014) pp.78-80. We will return to the theme of cultural divisions in studying war in Chapter 4.

⁷¹ Ignatieff, *The Lesser Evil*

⁷² Jackson, 'Liberal Intellectuals', pp.178-180

rights could demand the more palatable violences of intervention.

Interrogation and the Enemy Combatant: Torture and Terrorism

The illiberal measures undertaken under the banner of the War on Terror - including unprecedented surveillance powers, renditions, and torture - have been formulated through the challenge to both domestic and international law. Kant's *Jus Cosmopolitanum*, seemingly vindicated in the triumph of freedom in the Cold War, was seen to be existentially threatened by a barbarous threat that knew no bounds: the fanatical, suicidal, fundamentalist terrorist.⁷³ The proponents have relied upon three justifications: the statement of 'novelty', that the terrorist threat was a *sui generis* phenomenon; secondly, that in the face of this threat, without historical precedent, the traditional methods and supporting legal frameworks are unsuited and would leave not only the US, but international society generally, vulnerable; and finally, that a new legal and constitutional doctrine - the unitary executive - would be necessary to enact quick and decisive response, without congressional oversight and the checks of judicial review.⁷⁴ In the Military Order of November 13 2001, Bush declared that the grave danger faced in the threat of terrorism rendered it necessary for any individual "subject to this order" to be detained and tried; however, "it is not practicable to apply in military commissions under this order the principles of law and the rules of evidence generally recognized in the trial of criminal cases".⁷⁵ The determination of which individuals were subject to this order were incredibly broad. Potential cases included: those whom he had any "reason to believe" was a member of a terrorist group; had aided or abetted in terrorist activities; harboured any terrorists: or even, the order was applicable if it was "in the interest of the United States that such individual be subject to this order".⁷⁶ The Bush administration while declaring war, then categorically excluded the entity of the 'terrorist' from the Geneva Conventions through a new legal category, the enemy combatant, and in the treatment of this right-less subject, a redefinition of 'torture' was formulated.

The Attorney General Alberto Gonzales stated in 2002 that this "new paradigm renders obsolete Geneva's strict limitations on questioning of enemy prisoners and renders quaint some of its provisions".⁷⁷ This assertion structured the debate around torture, which revolved around the question of the prisoner of war status of captured 'insurgents' - and therefore their ability to protection under the Geneva Convention Relative to the Treatment

⁷³ Costas Douzinas, *Human Rights and Empire: The Political Philosophy of Cosmopolitanism* (Oxon: Routledge, 2007) p.4

⁷⁴ Devin O. Pendas, 'Interrogating Torture: Human Rights, the War on Terror and the Fate of America' in *Journal of American Studies* Vol. 44 No. 2 (2010) pp.431-432

⁷⁵ United States [Executive Order], 'Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism' in *Presidential Documents* Vol. 66 No. 222, Military Order of 13 November 2001, *Federal Register*: 16 November 2001

⁷⁶ United States, 'Detention, Treatment, and Trial of Certain Non-Citizens in the War against Terrorism'

⁷⁷ Steven Lukes, 'Liberal Democratic Torture' in *British Journal of Political Science* Vol. 36 No. 1 (January 2006) p.6

of Prisoners of War (GPW) - and further, what exactly constituted torture: essentially, who could be excluded from the fundamental protections and freedoms afforded by humanity, and then the question of what inhumane practices could be permitted on these bodies. While there were members of the Bush administration who voiced objection, notably Colin Powell, the Department of Justice was determining the extra-legal spaces of this 'new war'. In a memo drafted by John Yoo for the Department of Defence in 2002, it was argued that the laws of armed conflict in reference to the detention and trial of al-Qaeda or Taliban members do not offer protection, which "as a non-State actor cannot be a party to the international agreements governing war".⁷⁸ The status of Afghanistan as a failed state and therefore the illegitimacy of the Taliban, are argued to render the Geneva Conventions null and void. The statelessness of the terrorist organisation - and those accused as terrorists - render them as outwith the protections of the laws of war, as illegitimate belligerents. John Yoo further added that "the President has appropriately determined that al-Qaeda members are not POWs under the GPW, but rather are illegal combatants [...] interrogation of al-Qaeda members, therefore, cannot constitute a war crime".⁷⁹ A memo from William Haynes, the General Counsel for the Department of Defence to the Council on Foreign Relations argued that "enemy combatant is a general category that subsumes two sub-categories: lawful and unlawful combatants", while the former were granted prisoner of war status, the latter would not receive this status nor the accompanying protections.⁸⁰ The illegality of the combatant informs a presumption of guilt for those who stir suspicion - a 'reason to believe' - that they are an enemy combatant. In a 2002 meeting with Bush, the Afghanistan Interim Authority Chairman Karzai - who would later become President - enquired as to the detainees being held at Guantanamo and the denial of the Geneva Convention. Bush retorted that a meeting with his national security team on the question of the "legal ramifications" of the characterisation of the "actions at Guantanamo Bay" had produced two agreed upon points: "One, they will not be treated as prisoners of war. They're illegal combatants. Secondly, they will be treated humanely".⁸¹ The line between the inhumanity of the enemy and the humane policy of the US was a fine one, which Bush stumbled along in an assurance that "these killers — these are killers — were held in a way that they were safe".

Having established the question of their status as 'illegal combatants', and decisively not prisoners of war, the legal body tackled the question of the permitted interrogation techniques that could be used. An August 2002 memo from Yoo to Gonzales addressed the standards of conduct under the US domestic law against torture, which concluded that the

⁷⁸ See 'Application of Treaties and Laws to al-Qaeda and Taliban Detainees' from John Too, Robert Delahuney to William J. Haynes, Memorandum (9 January 2002) accessible at <https://upload.wikimedia.org/wikipedia/commons/7/7e/Yoo_memo.pdf> p.1; also, Mark Danner, *Truth and Torture: America, Abu Ghraib, and the War on Terror* (New York: New York Review of Books, 2004) pp.83-84

⁷⁹ Danner *Truth and Torture*, p.113

⁸⁰ See: Goeffre Corn, Rachel Van Landingham, Shane Reeves (ed.) *U.S. Military Operations: Law, Policy, and Practice* (Oxford: Oxford University Press, 2016) p.598

⁸¹ George W. Bush, 'Remarks by the President and Chairman of the Afghan Interim Authority Hamid Karzai', The Rose Garden, The White House (28 January 2002)

statute penalises "only the most egregious conduct" and argued that in the current circumstance, enforcement of the statute may be barred as "an unconstitutional infringement of the president's authority to wage war".⁸² While noting that only the most "extreme forms of physical and mental harm" are banned, if even this barrier is transcended, they propose the "standard criminal law defenses of necessity and self-defense" as justification.⁸³ The ability of the executive to provide security is held paramount. The debate over how far US personnel were able to push this ban on the "most extreme forms of physical and mental harm" was addressed in what has become known as the 'Bybee Report'. In a 2002 memo addressed to Gonzales, the head of the Office of Legal Counsel, Jay Bybee, addresses the question of permissible "Standards of Conduct for Interrogation" under the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. Reviewing the legislative history, it is concluded that torture is not simply the infliction of pain or suffering, "but is instead a step well removed". To be considered 'torture', "the victim must experience intense pain or suffering of a kind that is equivalent to the pain that would be associated with serious physical injury so severe that death, organ failure, or permanent damage" will result, noting that psychological damage would have to cause long-term harm; the report ends with the assertion that "Because the acts inflicting torture are extreme, there is a significant range of acts that though they might constitute cruel, inhuman, or degrading treatment or punishment fail to rise to the level of torture".⁸⁴ How could this line between extremity and inhumane cruelty be determined?

In a memo counselling the CIA on what is possible in the interrogation of an al-Qaeda operative, Bybee responded to a CIA request for legal authorisation in the conduct of eliciting information from a man believed to be a high-ranking operative. The CIA received authorisation to undertake all ten methods that had been requested, on the basis that these fell below the extremity of torture: "(1) attention grasp, (2) walling, (3) facial hold, (4) facial slap (insult slap), (5) cramped confinement, (6) wall standing, (7) stress positions, (8) sleep deprivation, (9) insects placed in a confinement box, and (10) the waterboard."⁸⁵ The calculation of an acceptable level of harm was based in 'faith' that the CIA had conducted a thorough enquiry on themselves and upon the subject of interrogation, as Bybee notes the enquiry "demonstrates the presence of a good faith belief that no prolonged mental harm will result from using these methods".⁸⁶ This presumption of restraint and responsibility lay with the interrogators, that the humanity of the US state institution to administer the right amount of cruelty and inhumanity upon the right-less. While the Office of Legal Counsel of the Department of Justice debated the possible methods at the disposal of the US in fighting the "enemies of freedom", the security policy makers were articulating the central tenets of

⁸² Danner, *Truth and Torture*, pp.115-116

⁸³ Danner, *Truth and Torture*, pp.149-155

⁸⁴ Danner, *Truth and Torture*, p.126;p.155

⁸⁵ United States Department of Justice, *Interrogation of al-Qaeda Operative*, Memorandum for John Rizzo Acting General Counsel of the Central Intelligence Agency, Washington DC (1 August 2002)

⁸⁶ US Department of Justice, *Interrogation of al-Qaeda Operative*

the Bush Doctrine of preemptive, unilateral action against the states harbouring terrorists to pursue regime change.⁸⁷

Bush delivered the State of the Union address in January 2003, during the build-up to the invasion of Iraq, where he equated the US with freedom, and outlined an expeditionary mission: "The American flag stands for more than our power and our interests. Our founders dedicated this country to the cause of human dignity, the rights of every person, and the possibilities of every life. This conviction leads us into the world to help the afflicted and defend the peace and confound the designs of evil men".⁸⁸ The mythology of the US as a nation born in democratic struggle, as the land of rights, then heralds the country as the saviour of suffering peoples, which was emphasised through a reference to the 'liberation' of the Afghan people. Saddam Hussein is continually referenced as a barbarous tyrant, the myriad human rights abuses relayed by Iraqi refugees. Democracy is portrayed as the antidote - while a democratic government were negotiating the boundaries of legality in stripping rights in the provision of torture. In an address aboard a warship, Bush characterised Operation Iraqi Freedom - and the broader War on Terror - as "the transition from dictatorship to democracy", an arduous one but in the end, the US would "leave behind a free Iraq".⁸⁹ Given the righteous mission of rights promotion in its very foundation, the inhumanity of the means would appear to be an aberration. However, this can perhaps be understood through a reflection of the French use of torture in Algeria, both the US and France as progenitors of the rights declaration and both having legitimised torture in the name of security through liberation. Indeed, Harvard Law professor Alan Dershowitz placed the debate on the legality and legitimacy of torture within the "ticking time bomb" scenario, an argument that had notoriously been deployed by General Massu's paratroopers in the Battle of Algiers.⁹⁰ A hypothetical scenario, this calculation presumes a lesser evil for a greater good, a question of practicable ethics and legal discourse which removes the corporeal reality of the problem of torture in an abstract measurement of a little pain to stop a massive loss.

The Inhumanity to Define Humanity

Published on the 200th anniversary of the Declaration of the Rights of the Man and of the Citizen, Rita Maran's study of torture in Algeria examines France's human rights abuses alongside the ideology of the *Mission Civilisatrice*. Maran argues that the notion of

⁸⁷ We return to preemptive war, in more detail, in chapter 3.5

⁸⁸ George W. Bush, 'State of the Union Address', Washington DC (21 January 2003)

⁸⁹ George W. Bush, 'Address Aboard U.S.S. Abraham Lincoln' (1 May 2003) [The now-infamous 'mission accomplished' speech]

⁹⁰ N MacMaster, 'Torture: From Algiers to Abu Ghraib' in *Race and Class* Vol. 46 No. 2 (2004) pp.4-5; See also, Elaine Scarry, 'Five Errors in the Reasoning of Alan Dershowitz', in *Torture* (ed.) Levinson (Oxford: Oxford University Press, 2006) p.284. "What makes the ticking bomb scenario improbable is the notion that in a world where knowledge is ordinarily so imperfect, we are suddenly granted the omniscience to know that the person in front of us holds this crucial information about the bomb's whereabouts."

'universality' which underpinned the UN Universal Declaration was "a by-product of France's proprietary sense of universality".⁹¹ This proprietary can be read in the foundational exclusions in the 'universal subject' as the French male citizen and it figured in the exclusion of the culturally, racially, socially, politically inferior Other. The ideology of the rights of man is the same that informed the colonising project of Empire, as the rationalisation of colonialism holds that the Algerians had to be civilised through the Enlightenment ideals of French culture - violently when necessary. Torture practices were sustained by an entire system of oppression and corrosion of the rule of law in which the presumption of guilt was rendered null for the entire colonial population. Such extraordinary powers were justified by the French Army through reference to the radical novelty of the threat, of a Maoist-revolutionary guerrilla force, planting bombs and hiding in plain sight.⁹² The pacification of failed and rogue states, and the imposition of democratic governance to provide freedom and rights, sanctioned the morally reprehensible practices of intervention, torture, rendition, and surveillance, in the moral pursuit of security through liberty. The promotion and protection of democracy was championed by both the neoconservative and liberal commentators in the war against terrorism, a war it was agreed was in defence of humanity from the barbarities of fundamentalists. The divergence revolved around the balancing of liberty and security, how far the scales could be tipped.

Across these ideological streams, the neoconservative and the liberal, freedom has been mobilised in the exclusion of particular spaces in a partisan planetary imaginary. Didier Bigo argues that we must interrogate the social practices of liberal democracies that enable the authorisation of illiberal measures in the name of freedom both at home and abroad. Freedom must be exposed and analysed as a way to govern, and specifically as the governmentality of the liberal capitalist subject, to denaturalise liberty. While responsibility, accountability, and security have been continually referenced in official administration in practices from intervention to drone strikes, it is the supposed existential threat to freedom - associated with a particular way of life - that frames responsibility, where defence is at high costs. Freedom is then perceived as the possession of a particular group – us – that is sorely lacking in the Other; Bigo warns "this line of thought refuses any constitutive theory of ethics, and promotes that we judge ourselves and the others only through the prism of our criteria and standards".⁹³ How freedom is written in the security discourse of belligerent liberalism, in the speeches and doctrines of foreign-policy makers and framers, structures what freedom can be taken, from whom and by whom.

Limitations are placed upon the imaginary of freedom. 'Freedom from', intensified by neoliberal logics of accumulation, encompass (certain) human rights, and the recognition of consumption, without the recognition of structural unfreedom, disregarding the inequality that is inherent with a freedom of choice. As freedom is associated with 'our' negative

⁹¹ Rita Maran, *Torture: The Role of Ideology in the French-Algerian War* (New York: Praeger, 1989) p.142

⁹² MacMaster, 'Torture: From Algiers to Abu Ghraib' pp.5-6

⁹³ Didier Bigo, 'Delivering Liberty and Security? The Reframing of Freedom when Associated with Security' in *Europe's 21st Century Challenge: Delivering Security*, (ed.) Bigo et. al. (Surrey: Routledge, 2010) p.404

individual rights, the almost exclusive use of the label 'terror' in reference to 'Islamic fundamentalism' is indicative of Islam being conceived as a dangerous alternative way of life: an Islam referring to unfreedom, a disregard of human rights, violence, religious fervour, and a challenge to the rule of law. Where terrorist cells are condemned as 'enemies of freedom', and the struggle for liberty 'civilisation's fight', one must consider what constitutes freedom and/as security: the US War on Terror is critiqued only on the grounds of an over-extension of security as jeopardising the liberty that is being fought for, leaving intact the underlying security logics. Equating freedom with human rights and civilisation differentiates the free, rights governed subject, while enables the selective revocation of the freedom and rights. This universal, normative truth claim to a specific conception of freedom conceals, and indeed entails the sacrifice of all alternatives.

In the legal wrangling to define what is a legitimate level of suffering upon the unarmed - but nonetheless illegitimate - body, the unlawful enemy combatant, Montpetit Richter notes the biopolitical logics of life exposed in the War on Terror which, rather than a *return* to medieval depravity, are rather "informed by gender racial-sexual logics that historically bring about 'the absolute divestment of sovereignty at the site of the black body'".⁹⁴ The images of ritualised humiliation at Abu Ghraib which flooded the world's media documented myriad sins, including pornographic images of sexual assault, intimidation with dogs, dead bodies, and the famous image of a hooded man clutching electrical wires, in some accompanied by the jarring presence of the everyday activities of the US soldiers, filing paperwork or clipping their fingernails. The response to these images, from horror, a morbid fascination that often betrayed a gendered sexualisation of violence in the depiction of the female guards, and the US government fear that this would undermine the war effort by stoking resentment in the Middle East petered out: the normality rendered abuse banal. Douzinas describes this process, and our culpability, as "the legitimisation of torture by liberals, the animalisation of prisoners, the proliferation of pornographic pictures, the initial titillation and later boredom of the public's response makes us all participants in these events"; this overt display of the practices of violence, exclusion, torture, and war in the name of securing humanity, exposes "what it means to be human. It takes inhumanity to define humanity by separating out the non-human".⁹⁵ From the assertion at the beginning of this chapter that security is in fact the supreme principle of liberal ideology, the debates surrounding the US conduct in the War on Terror - particularly with respect to torture - highlight the prevalence of the supposed 'balance' between liberty and security, a balance that is then inscribed in the provision of universal human rights, tipped toward a particular articulation of freedom.

⁹⁴ Melanie Montpetit-Richter, 'Beyond the Erotics of Orientalism: Lawfare, Torture, and the Racial-Sexual Grammars of Legitimate Suffering' in *Security Dialogue* Vol.45 No. 1 (2014) p.51. Montpetit-Richter draws upon Critical Race Studies to historicise the racialised legal framework and security technologies of the settler colony founded in chattel slavery.

⁹⁵ Douzinas, *Human Rights and Empire*, pp.120-121

Chapter 3. Sovereignty: a Privilege and Not A Right: A Few Words on Liberal Imperialism

"To characterise any conduct whatever towards a barbarous people as a violation of the law of nations, only shows that he who so speaks has never considered the subject. A violation of great principles of morality it may easily be; but barbarians have no rights as a nation, except a right to such treatment as may, at the earliest possible period, fit them for becoming one. The only moral laws for the relation between a civilised and a barbarous government, are the universal rules of morality between man and man"

- John Stuart Mill, 'A Few Words on Non-Intervention'

The human rights regime of truth, the general politics of what can - and cannot - be considered with the remit of legitimate human rights, also entails the construction of deviancy from the norm. These are the governable entities problematised through reference to the rights of humanity. The study and practice of Intentional Relations has fetishised the constitution of the nation state system as one of equal entities, each afforded a mutuality of respect, thus guaranteeing sovereign autonomy. Across this chapter, I will explore the exceptions baked into notions of international justice, human rights, and sovereign equality. Unsettling the claims that the post-Cold War heralded a watershed in the permeability of borders as ahistorical, it is imperative to note the limitations placed upon sovereign recognition of the Other throughout the history of international relations, hierarchical relationships which have been hidden and institutionalised by the Anglo-American dominated study of International Relations (IR). The notion of security, whether expressed in the dominant dichotomous strand of realist or idealist, has traditionally been tied to the political community of individuals constituting the sovereign nation state. Discussions of sovereignty in political theory and practice has relied upon the articulations of Bodin, Hobbes, and the mythology of the Westphalian peace, seemingly upset by the militaristic humanitarian impulse of the 1990s and the moral prescriptions of the Responsibility to Protect. The 1648 peace, which has been read as installing the lynchpin of sovereignty as non-interference, has formed the core of IR assumptions, in that the sovereign is the constitution of power within a given territory. Realists (among others) have posited the novelty of the moralising expeditionary force unleashed after the Cold War, lamenting the US fall from grace in undertaking the role of global police-force.¹ The overarching question posed by this thesis concerns how the sovereignty of other states came to be measured through reference to how they treat their own citizens, and how did that equation become intertwined with US national security? The claim that some states are no longer able or willing to fulfil their sovereign duties, that they must be corrected and disciplined in order to regain their sovereignty, presupposes a notion of what sovereignty is.

Sketching out the subject of international law at the turn of the 20th Century in an attempt to consolidate international law, Lassa Oppenheim discusses the question of the divisibility of sovereignty, with particular reference to those colonial spaces that are not-

¹ David Kennedy, 'Two Concepts of Sovereignty' in *To Lead the World: American Strategy after the Bush Doctrine* (ed.) Leffler, Legro (Oxford: Oxford University Press, 2008)

quite-sovereign. Contemporaneous references to sovereignty abound in the age of Trump and Brexit, the taking control of sovereignty being necessary for greatness, sovereignty as a symbol of (national) pride and independence. Sovereignty generally refers to the source of power within a polity, understood in territorial terms, absent of external intervention.

As should not have to be written - but which unfortunately must - sovereignty has always been conditional, one must only signal toward the histories of colonialism and slavery. The ability to exercise autonomous rule has employed racialised notions of civilisation, relations which have been stripped of their racial overtones after the second world war, in the introduction of economic - read as apolitical and objective - standards. Intervention in failing or rogue states is legitimised upon the premise of a breakdown of the social contract, of a sovereign who does not fulfil the duties and responsibilities expected by their subjects, who therefore loses the privileges of autonomy. This normative prescription presupposes a unified thought as to what sovereign governance actually entails. Renowned German jurist, and so-called father of International Law Oppenheim, a positivist, addressed the difficulties of legislating around sovereignty, referring to the sticky conceptual history. Taking the reader through Bodin, Hobbes, Locke, Rousseau, through to the difficulties of federalism in Switzerland and Germany, even Civil War in the US, Oppenheim concludes that sovereignty cannot be regarded as anything but divisible due to the existence of 'semi-independent states'. Tracing this controversy, Oppenheim remarks: "There exists perhaps no conception, the meaning of which is more controversial than that of sovereignty. It is an indisputable fact that this conception, from the moment when it was introduced into political science until the present days, has *never had a meaning which was universally agreed upon*".² The normative power of 'sovereignty', that emerged through the 20th and continued into the 21st centuries has worked to ascribe particular characteristics to sovereign states, and thus to exclude others, fostering a glaring Eurocentric tilt. As knowledge-production on 'the international' has coalesced across the 20th century - IR being formalised as a discipline in 1909 in Aberystwyth - the formation of postcolonial spaces as 'equal' sovereign members has (re)produced a notion of sovereignty around ideals of capability, legitimacy, autonomy, and rationality. In this attribution of an ahistorical 'equality', the processes of decolonisation and inclusion in the international then situates any failures as emanating from the postcolonial sites of poor governance, corruption, and underdevelopment.

The stakes of sovereignty are high, as sovereign status bestows rights of nonintervention and autonomy.³ Writing on the conceptualisation of sovereignty in light of decolonisation and the proliferation of nation states, Jackson addresses Third World 'underdevelopment' by arguing for the analytical category of 'quasi states' in a text published in 1990. These states he argues, were sovereign in name, but did not possess the qualifiers that had previously been necessary. This distinction is pursued through the identification of a

² Lassa Oppenheim, *International Law: A Treatise*, Vol.1 Peace, Ed. Roxburgh, 3rd ed. (New Jersey: The Lawbook Exchange, 2005) pp.129-134 (quote p.129)

³ Robert Jackson, *Sovereignty: The Evolution of an Idea* (Cambridge: Polity Press, 2007) p.21

doctrine of 'positive sovereignty' practiced in Europe, whereby the so-called reality of statehood and requirements of security and order as articulated through Machiavelli, Bodin, and Hobbes was realised, and 'civilisation' translated into ability to defend a territory, uphold independence, and maintain civil interactions. These states would then be sovereign in name, but did not possess the qualifiers that had been necessary earlier.⁴

Unproblematically reproducing the Eurocentric assumptions of international law and international relations used to question the sovereign states of those underdeveloped/failed states, Jackson fails to interrogate the Westphalian Model at the heart, which hinges upon a particular moment of European history that has been mythologised into the conditions of possibility for the study of international relations itself.

Writing in the moment of the sweeping self-determination and new nationalisms of the decolonising process, Fanon critiqued the false dichotomy of self-reliance/dependency that pervaded - and continues to inform - the struggle for legitimate state-hood, from both sides of the table. Discussions on development revolve around the mettle of the formerly-colonised to prove their worthiness and to achieve the status of the developed, as "there is a widespread belief that the European nations have reached their present stage of development as a result of their labors".⁵ Those 'underdeveloped masses' must now do the same. Further, in this refusal to recognise the interlinkages of exploitation and accumulation - grounded in racialised logics of capability - which were foundational to the international power of the West, there is thus no articulation of the pillaging of the former colonial spaces. The plight of underdevelopment is demarcated by "the geography of hunger with their shrunken bellies", not only "a world of poverty and inhumanity" but of a chronic lack of infrastructure: the derisory claims that a national independence would constitute a backwards step, is informed by a demand to replicate the successes of the West without the indifferent pillaging of the resources of enslaved black bodies and the lands of the Global South.⁶ Fanon describes a retributive streak in response to independence movements and the expansion of sovereignties, which is prefigured on a notion of dependency, which has been reproduced and perpetuated through practices of human rights standard-bearing, and this chapter will explore the punitive measures deployed when sovereign states are deemed to be failing in their provision of human rights. Human rights as a standard of sovereign duty, have been used as a call to without capital and expertise - that are necessary to succeed within or indeed to challenge the global capitalist and liberal systems - and further, to intervene within sovereign space militarily, all in the name of promoting humanity.

In a short, evocative meditation on the question "what is racism", Ramon Grosfoguel captures the complexity of relations of domination and oppression, the hierarchies drawn at the level of the human which demarcate inferior/superior. Not a geographically fixed distinction and one that cuts across relations of class, gender, sexual, and other discrimination, the framework of structural, racial oppression is conceptualised across the

⁴ Jackson, *Sovereignty* p.51-72

⁵ Frantz Fanon, *The Wretched of the Earth* (trans.) Philcox (New York: Grove Press, 2004) p.52

⁶ Fanon, *The Wretched of the Earth* pp.53-54

Fanonian spatialities of the 'zone of being' and the 'zone of non-being'.⁷ The Portuguese economist Boaventura de Sousa Santos has warned against the unchecked spread of "abyssal thinking". With literal geographic, colonial origins in the Amity lines drawn in the mid-16th Century, Santos describes line drawn between the social contract and the state of nature, a line which renders invisible the violences, one that obliterates temporalities, a "radical negation" of law and knowledge, an abyss.⁸ The markers of racial difference constitute constellations that can relegate a group to the state of non-being, of subhumanity: life on the other side of the line is dehumanised, stripped of rights, life mired in violence. Across this chapter, we will address the question of how conceptions of *humanity* itself can be wielded as cultural markers of differences; that is, practices of racialisation wherein the humanity of the inferior is determined in the supposed inability to promote humanity through protections, through philosophy and law.

3.1. Attaining the Monopoly on Violence: Foundational Fallacies

The study of international relations has traditionally turned upon a simple distinction between the domestic order of the sovereign state, and the anarchic space that exists between these autonomous figures, states being the sole - or at least central - actors upon the international stage. If political theory was interested in the relationship between the state and its citizens - the sovereign being the purveyor of order - the international had then to be considered as distinct, without the principle of a higher government. As read through the regime of truth, what is posed as central - or even appropriate - questions that can be asked within a field of knowledge, structures how that power is practiced. Questioning the pervasive problem of war has been central to interrogations of the international, which has historically focused upon notions of order - which is ultimately, security. The philosophy of the sovereign state, which has been identified as the ordering principle of (successful) human communities, as well as offering a site of conflict for the problematic relationship between liberty and order, has had profound implications upon how scholars have approached relations between, across, and beyond states. The balancing act that is said to exist between liberty and order - where too much liberty disrupts order while too much order hinders liberty - is an inheritance from the Enlightenment. The study of security, originally emerging from a logic of strategic studies in a Cold War context, reproduced these dichotomies: the integrity and purity of the state had to be secured from the chaotic, illegitimate, disordered, and unclean outside. From this framing of security, it became almost naturalised as based in sovereignty, a reading which dominated the discipline (and continues to hold powerful sway). However, the realist focus upon power has been destabilised by the contemporaneous threat of non-state actors who could harbour

⁷ Ramon Grosfoguel, 'What is Racism' in *Journal of World-Systems Research* Vol. 22 No. 1 (2016) pp.9-15

⁸ Boaventura de Sousa Santos, 'Beyond Abyssal Thinking: From Global Lines to Ecologies of Knowledges' in *Revista Crítica de Ciências Sociais* (2007)

weapons of mass destruction, capable of bringing down the Goliath's of the international system, the notion of the security of strength has to find another explanation for weak actors as the major threat. This chapter takes aim at the structure of the inside/outside dichotomy, performed not only across national to international spheres - or on territorial boundaries - but also refers to the differential temporalities, whereby some states are placed within the international of civilised conduct, and others standing outside.⁹ Throughout this discussion on sovereignty, the supposed transnational interdependence of the state in the post-Cold War will be considered alongside the re-assertion of the state in the notion of the failing and rogue states, a mutually reinforcing distinction which produces a 'containment' of the Global South, a practice of the 'policing at a distance' explored in the final chapter on 'war'.

Get Real: State of Nature Writ International

The realist tradition in international thought has been the traditional and dominant frame through which security has been studied and politicked. Realism, as opposed to idealism - as is perhaps apparent from the name - is regarded by its exponents as reading the world as it *actually is*, rather than how it *ought to* or could be. This is not to say that realism and idealism are mutually exclusive - and in fact this false dichotomy has masked over many of their shared fundamental assumptions - but they exhibit different conceptual frameworks and ideologies surrounding recommendations for policy-making. While realism is a broad church, the focus upon security, and specifically *national* security - with states as the only reference object - provides a unifying through-line. IR is a relatively young discipline, and has a complicated disciplinary home - either being a sub-field of political science, associated within larger departments of history, politics, and sociology, and now breaking free into its own (interdisciplinary) field. Theoretical trappings, from ancients to moderns, and diverse methodological forms have been applied to the international, in attempting to explain the past, present, and future of global relations. Attempts to forge an epistemological path, an immutable tradition of how international politics functions, has bestowed upon realism a credibility, in that the state is the dominant actor in a world of anarchy and insecurity.

The underlying narratives that sustain 'realist' interpretations function to underpin the foundational dichotomies in IR, such as internal/external, civilised/barbaric, self/other, and legitimate/illegitimate, which have been institutionalised, disciplined, and considered as objective fact about the ways states relate. While often competing and paradoxical interpretations and narratives have emerged - including the call for a 'Responsibility to Protect' - the knowledges that inform the relations of power proliferate and reproduce

⁹ It is important to note that such a distinction also operates on the domestic level through the logics of the 'enemy within', where entire minority populations are read through signifiers of suspicion - including the criminalisation of black, male bodies, as well as the profiling of Arab-Americans as potential 'terrorists': See Arun Kundnani, *The Muslims are Coming!: Islamophobia, Extremism, and the Domestic War on Terror* (London: Verso Books, 2014)

ideas of capability, security, and global stability. The pervasive worldview of sovereign state actors contains an inherent Eurocentric and Western bias, entailing a territorial notion of sovereignty that is manifest in borders and control, dependent upon the exclusion of the barbaric and savage Other who cannot play by the rules of the game. Kwame Ture in his struggle for black liberation in the US drew attention to the subconscious racism of Western society, concluding that "those who can define are the masters".¹⁰ Definitions matter, and how we perceive foreign policy and international relations are intimately bound up with the figure of the sovereign state, a construct that has become considered an almost natural, inescapable fact of human interaction, and from this figure international law, laws of war, and international institutions of global governance have been derived. The principle of state sovereignty considered within these strict terms limits thinking on the conditions of possibility of the formation of the state - as well as the governing of a successful state. International relations presupposes nationhood in its name. Norms of autonomy and non-interference, were never universal, nor did the canon from which the study of the international read from ever present it to be. These practices were never extended to the unassimilable, or not at least without a healthy dose of schooling first. In order to address the hierarchical recognition of sovereign legitimacy that is inherent in the attribution of state failure, fragility, or roguery, and the intertwined practices of development and human rights enforcement in response by actors such as the US, the UN and the IMF, it is integral to explore the exclusionary logics upon which 'successful' status rests. The state constituted against the uncivilised - situating the problem with *them* - does not account for past and continuing relations of colonialism. To interrogate the foundational principles of sovereignty, which have forged a tradition, we turn once again to Hobbes: as the social contract and founding of sovereign power as security has already been explored in the previous chapter, we now consider Hobbes and his status as a founding father of IR theory, the anarchic state of nature against which we constitute order.

In the distinction between political theory of domestic politics and international relations, the figure of the sovereign state looms large. Hobbes' theory of the constitution of the sovereign - the Leviathan - as the achievement of the most security has borne witness to a self-penned 'Hobbesian tradition' within IR.¹¹ Despite Hobbes' relative lack of theorising beyond the bounds of the nation, this 'small cupboard' of his thought - indeed, none of the great political thinkers having devoted themselves entirely to the study of international relations - seemingly entrenches the inside/outside distinction from which the sub-discipline of IR was born. There are multiple 'realisms', but the shared key tenets are founded upon a reading of the Hobbesian state of nature writ international. A worldview particularly prevalent in the Cold War US policy-circles and the most dogmatic principles manifest in the figure of Henry Kissinger. This anarchic disorder could not be softened (entirely) by concerns

¹⁰ Stokely Carmichael, *Stokely Speaks: From Black Power to Pan-Africanism*, (Chicago: Chicago Review Press, 2007) p.80

¹¹ Cornelia Navari, 'Hobbes and the 'Hobbesian Tradition' in International Thought' in *Millennium: Journal of International Relations* Vol. 11 No. 3 (September 1982)

of morality or justice, and any attempts to impose ideals wholesale would be naively exposing the self. In this Hobbesian perspective, the quest for power and influence in an uncertain and vulnerable international arena is understood to motivate the actions of nations, in a perpetual state of insecurity and possible conflict. As anarchy reigns, states are able to wield their relative power to dominate or submit.

Hedley Bull, author of *The Anarchical Society* and a key figure of the English School, brought two of the most prominent thinkers of realism together: he situated Hans Morgenthau, a famed public intellectual in the articulation and proliferation of the realist doctrine in the US, within a 'Hobbesian' tradition of IR scholarship. Despite divergence between the two in many aspects, Bull argues that Morgenthau systematises and expands the glimmers of international attention paid by Hobbes, and applies it to the trials of Cold War politics, where this formulation of global tensions found a happy home.¹² Morgenthau's theorisation of Realist thought in IR, *Politics Through Nations: Struggle for Power and Peace*, developed a schematic of the study of international relations and cemented the US post-War outlook on global politics. The international as an enduring, anarchic site of struggle, with states as the sole actors who must apply a rationale in navigating through this chaotic sphere is underpinned by the belief in an unchanging human nature which drives conflict and seeks power. A common feature of realist thought, Hobbes claimed that "in the nature of man, we find three principall causes of quarrel. First, Competition; Secondly, Diffidence; Thirdly, Glory".¹³ Objective laws of politics have been determined, according to Morgenthau, through reference to this constant in human nature - a nature observable since the classical philosophies - which reveals a drive to power and influence. Therefore, it is through reference to these objective, knowable laws then, that Morgenthau argues rational policy can be determined, and truth can be separated from opinion in the correct course of the nation. Considerations of morality are held at a critical length. Abstract and universal moralities are rejected as a point of tension with the demands of political reality, politics being both historically and geographically contingent. As international politics are also driven by people, this human impulse could be witnessed in individuals as well as states: "both domestic and international politics are a struggle for power [...] the tendency to dominate, in particular, is an element of all human associations".¹⁴ From this pessimistic view, the role of strategic interaction is paramount in 'Hobbesian' international thought, whereby the security dilemma which arises from uncertainty and vulnerability - each unable to calculate with any certainty the behaviour of another - will seek to balance power and thus offset risk.¹⁵ The converging of these lines of thought into a dominant reading of

¹² Hedley Bull. 'Hobbes and the International Anarchy' in *Social Research* Vol. 48 No. 4 (Winter 1981) pp.717-738 which is a special collection on Morgenthau *The Work of Hans Morgenthau*

¹³ Hobbes, *Leviathan* p.88

¹⁴ Hans Morgenthau, Kenneth Thompson, *Politics Among Nations: The Struggle for Power and Peace* (New York: Knopf, 1985) p.294; Graham Evans and Jeffrey Newnham, *The Dictionary of World Politics: A Reference Guide to Concepts, Ideas, and Institutions* (New York: Simon and Schuster, 1990)

¹⁵ The 'security dilemma' is a conceptual model whereby in the anarchical international, the actions of a state to heighten security makes others insecure, therefore enhancing perception of insecurity.

realism, prided as being based in the reality of the international as opposed to how it ought to be, is revelatory of the homogenising of opinion, therefore the exclusion in interpretation that is enacted when one claims to be stating objective facts, and explanatory of the pervasive influence of *realpolitik*. In order to destabilise this unity, it is illuminating to interrogate the international reading of Hobbes.

The anarchy said to be existing between states from the dominant realist understanding of IR, extends from a problematic lifting of Hobbes' observations about the relations between individuals in the state of nature, to state actors. While this competition cannot be pacified through the constitution of an overarching world government, the realist reading of interstate war concerns motives of belligerence, that being security of power and status, with each state being equal. In the famous passage in which Hobbes outlines the 'natural condition of mankind', it begins with the assertion that "Nature hath made men so equal [...] when all is reckoned together, the difference between man, and man, is not so considerable".¹⁶ However, sovereign states are not, by nature, equal (or by nature at all for that matter), with different land-masses, populations, political systems, representation in international institutions, capital power, the list goes on.

The *Leviathan* was written in the context of the English civil war (1642-1651), calling for the surrendering of some autonomy to a unifying sovereign power of governance, to bring an end to the brutish violence of all against all. Hobbes has been championed by realist thinkers as conceptualising the value-free and interest-paramount state of anarchy to guide relations between sovereign state actors. The initial founding of security studies, arose from a diagnosis of the international justified through a reading of Hobbes wherein states act in self-interest in order to secure their borders, trade routes, alliances, power, and influence. The founding of the state in the form of the social contract is the imposition of order that Hobbes argues is necessary for the fruits of civilisation: in the absence of order there could be no industry, trade, knowledge, "no arts; no letters; no society", as these would all be eluded in the all-consuming fear of death.¹⁷ This equation of civilisation with specifically European statehood excludes the "savage people in many places of America" and elsewhere who live "at this day in a brutish manner", which will be elaborated upon below. This progression into the civilised state leaves the Other as backward, insecure, and fundamentally unable to produce knowledge, art, industry, and the rest, purely through their own inability to come together in the founding of a Leviathan.

Neither Hobbes nor realists argue that a Leviathan could (or even should) exist at the international level, nevertheless, the realist tradition draws upon the experience of individuals within the state of nature as a blueprint for the external, taking the descriptions of *intrastate* war to read *inter*. The aforementioned English School of International Relations expounds a brand of liberal realism which envisions an anarchic society, and Hedley Bull described this upscaling of the state of nature, and asserted that this does not translate into a perpetual war between states, but rather the creation of a form of an international society

¹⁶ Hobbes, *Leviathan* p.86

¹⁷ Hobbes, *Leviathan*, p. 89 (Subsection of Chapter 13: 'The Incommodeities of such a War')

through adherence to common norms and institutions. However, war being the relation *par excellence* of international study, Bull also refers to Hobbes' translation of the Thucydides account of the Peloponnesian War - a classic text that will have been encountered in the syllabus of any introduction to political philosophy or the study of security - and the shared emphasis that each figure places on the productive power of fear: fear being a catalyst for aggressive preventive wars as well as in defence, as a rational calculation of future possible insecurity. Thucydides has been considered as the original realist thinker and a founding father of IR study, particularly in the analysis of why wars are fought and how they are won, interrogating the nature of warfare. In the study of the mounting tensions between Sparta and Athens, fear of growing Athenian power and the possible future consequences for Sparta is posited as the underlying cause of the war. This escalation which is driven by unease has been conceptualised as the security dilemma: due to the anarchic, leviathan-less nature of the international, any move by a state to protect itself and increase its security, creates a relative threat to other states who must then arms themselves; in a system of each for oneself, no matter what the true intentions are - defensive or otherwise - these cannot be known, therefore all must respond in kind, causing mass insecurity.¹⁸ The pursuit of security, informed by the necessity of self-preservation, Bull claims is legitimised through natural right, which links Hobbes with the tradition of *Raison d'Etat*, as the Natural Right of states is to preserve the self, free from any universal morality and rather motivated through an existential fear.¹⁹ One cannot bring up *Raison d'Etat* without making reference to Machiavelli, whose caricature has become a heralded figure of realist thought, the recognition of the necessary violence and manipulation in governance and the resolve that ends can justify unsavoury means. He has been characterised as the original realist, just telling it how it is, and conversely being labelled as a 'Machiavellian' has seeped into popular culture discourse as denoting a ruthless, power-hungry, master manipulator. The merging of each of these lines of thought into a tradition have important implications for the study and practice of international relations. As Rob Walker reminds us in his prominent and enduringly relevant critique of IR scholarship, "references to a tradition of international relations theory are by no means innocent ... accounts of a tradition serve to legitimise and circumscribe what counts as proper scholarship".²⁰

Machiavelli is held up as a potent example of the dangers of the construction of the 'tradition', and particularly to the creation of ahistorical, universal theories from historically situated, contingent treatise. The taken-for-granted knowledge of a human nature, a seemingly-timeless understanding of the power-hungry and at times violent nature, effaces and lifts these texts out of the specific contexts in which they were written. These powerful and sustained origin stories elide context of the problematics these thinkers were addressing, civil war and the specific growing pains of establishing new states. This reified

¹⁸ Paul Viotti, Mark Kauppi, *International Relations Theory: Realism, Pluralism, Globalism, and Beyond* (New York: MacMillan, 1987) see pp34-36 on Thucydides and p.49 on Security Dilemma.

¹⁹ Hedley Bull, *Hobbes and the Anarchical Society* pp.721-724

²⁰ R.B.J Walker, *Inside/Outside* p.29

tradition raises a particular problem, that of maintaining security in an anarchic world of unchanging *Realpolitik*, which is dependent upon the dichotomous fracture of domestic political community and the unknown outside. The discursive formation has produced an the state as an ahistorical and natural universal entity, and with respect to Machiavelli's pride of place in the realist cannon, Walker describes the academic practice of IR wherein the footnotes, introductory classes, textbooks, and stark divisions drawn against idealists and liberals are revelatory of "the insistent assertion that there is a tradition, an origin, a code, a centre, a home from which one can set out to explore the contingencies and transformations of the world outside".²¹ The construction of a codex contributes to the subjugation of knowledges which do not attend to the requirements, either forgotten or discredited as 'unscientific'.

The state of nature that spurs the entering of the social contract, assumes the equality of the members therein. Turned toward the international, backlit by the great power struggle of the Cold War, such an equation makes little sense. As is often highlighted in tutorials through reference to the Melian Dialogue, the illiberal nature of the international is due to the relative inequality of states, and the resulting inability of a social contract: as the Athenians put it to the Melians "since you know as well as we do that right, as the world goes, is only in question between equals in power, while the strong do what they can and the weak suffer what they must".²² Referring to this knowledge of state behaviour, powerful states have no incentive to relinquish influence to a global sovereign - perhaps best illustrated by the US refusal to join the International Criminal Court (as well as failing to ratify numerous human rights treaties and conventions of which it was a major contributor). Achieving security, the end-goal of each entity, was then to be negotiated through adherence to norms of autonomy: international law and relations therefore organised around the balancing of powers to stave the dominance of a hegemon. As Chandler explains, both freedom and security are then reduced to the right of the sovereign nation, which is focused around the maintenance of equilibrium.²³ The discursive formation of foreign policy thus renders the state as an amoral entity acting within a state of perpetual uncertainty, but one which must strive through self-interest toward particular collective agreements such as the norms of sovereign autonomy and non-interference, as well as the balancing of power, throughout the Cold War.²⁴

The centrality of fear in Hobbes' thought, driven by the will to secure what one already has, has been interrogated by David Campbell, as central in the formation of identity in the self/Other dichotomy. Indeed, Hobbes' schematic of the sovereign envisions the coming together of individuals within a community, arrived at through a process of discipline and ordering. The constitution of a 'we', is arrived at through the fear of descending into a

²¹ Walker, *Inside/Outside* p.44 (also for Machiavelli analysis see pp.26-46)

²² Thucydides, *History of the Peloponnesian War* (ed.) Warner, Finley (Harmondsworth: Penguin, 1972)

²³ David Chandler, *International State-Building: The Rise of Post-Liberal Governance* (Oxon: Routledge, 2010) p.120

²⁴ Walker, *Inside/Outside* p.111

'them', constructed through reference not only to the contrast of the civilised and savage but also numerous other dualisms including good/evil, mad/sane, healthy/ill and drunk/sober. The righteous path being achieved through science and reason, ultimately, self-discipline. State identities do not preexist foreign policy, as a tool that is wielded by pre-existing entities; rather, the identity of a state is performed through foreign policy, which is constituted through difference and distinction of what it is not. The feeling of fear (of slipping back into the state of nature), and the engendered need to securitise, is inherent within the prescription of civil society. The 'man' of this civil society is juxtaposed to the chaotic, dangerous, drunk, ill, maligned, unreasonable outsider. Referring to the historical contingency of Hobbes' thought, this polemic is directed not only toward the treasonous subject within, but this engenders a problematic through which reason and discipline can be imposed upon the tumultuous disorder of 17th century Europe to conceive of a multi-state international system. Taking Campbell's analysis, we can also read the contemporaneous label of the rogue, as actors who simultaneously exist within and without this system; in the processes of imposing order amid chaos, the individual 'man' must conform to particular norms: "If he does not undertake this self-discipline he will be cast out of society and signified as troublesome, cumbersome, stubborn, unsociable, and intractable".²⁵ While remaining a part of the whole, this deviancy signifies danger, and they must then be cast out.

The use of critical race theory to expose the foundational racism in how the international is conceived can enable the unsettling of racist assumptions underpinning both liberalism and realism. IR, which remains dominated by a Western, if not a specifically Anglo-American tilt, relies upon notions which perpetuate a white-supremacist worldview: if we can only conceive of peace and humanity from such a perspective, how can we hope to integrate subjugated knowledges and alternative voices? The apparent race-neutrality of social contract theory, and particularly the foundational state of 'anarchy' is interrogated by Errol Henderson in order to expose the (re)production of power relations that function across racial lines. Returning to the fathers - as these relationships are almost exclusively paternal - of social contract theory, Hobbes, Locke, Rousseau, and Kant, the state of anarchy through which international order is constituted is indicative of a racial contract. For the white Europeans, anarchy was a mere abstraction that was the lived experience of the barbarous indigenous populations, serving purely as a warning to the civilised. Even more overtly racist, Kant imposed a hierarchy of personhood, whereby African people exist without the rationality or morality that is necessary for moral agency. The relationship of developed to the state of perpetual developing is silently encoded and endorsed as these writings are constantly cited in tracts on democratic peace and international order, without recognition of the exclusions baked within. Throughout the 20th century, as International Relations became established as an academic discipline, Henderson traces the trope of anarchy as developed in the theoretical traditions of realism, idealism, and constructivism as

²⁵ Campbell, *Writing Security* pp.53-63 (Quote p.58)

each perpetuating the racist dualism, that pervades IR theory and practice.²⁶ The failure to redress white supremacism further naturalises existing notions regarding the gulf between anarchy and civilisation - who is said to exist in anarchy, and who is able to do the saving - as well as the subjugated knowledges of the international. Recognising the genealogy of race in the development of IR as a field has been employed to expose how racist thinking gradually came to be subsumed - and naturalised - under different language and concepts. These are then laden with racial and biological assumptions which are no longer explicit, such as that of development.

From Westphalia to Vienna: Standardising Civilisation

Myth-busting of the hallowed status bestowed upon Westphalia has already been undertaken by various scholars, and cannot be completely rehashed here.²⁷ However, it is important to point to the pervasive dominance of this retroactive reading in IR, and how it fits with the mission objective of the discipline itself, describing the relations (specifically belligerence) between independent state actors. The peace treaties of 1648 have been privileged in the study of the international as the moment that anarchy was tamed into some form of harmony through recognition of sovereign autonomy. Independence, equality, territoriality, and security have been heralded as key concepts of the modern international whose roots can be traced to this peace. This discursive formation provides the discipline with a foundational problematic, and the ahistorical account of the formation of the modern European multi-state system continues to inform the 'natural' and 'observable' statist overview. Many investigations of the apparently 'novel' practice of humanitarian intervention since the 1990s have framed this development as a move toward a post-Westphalian, interdependent international of an international community. 1648 as the starting point of the modern conception of international relations, as the institution of peace through the recognition of individual sovereignty (read as independence) is so pervasive that the term 'Westphalian sovereignty' is commonplace in IR literature. Consisting of two bilateral treaties, the end of the brutal Thirty Years War has been portrayed as the founding of modern international relations, referred to as the 'Westphalian model': that is, peace achieved through an international society constituted on the principle

²⁶ From colonial administration to the end of the cold war, and questioning the role of 'Third World' - anarchy has been foundational. Henderson embarks upon a genealogy of race in the development of IR as a field of study; how 'race' gradually came to be subsumed under different language and concepts which are laden with racial and biological assumptions while no longer explicit (such as development). See Errol Henderson, 'Hidden in Plain Sight: Racism in International Relations Theory' in *Race and Racism in International Relations: Confronting the Global Colour Line*, ed. Anievas, Manchanda, Shilliam (Oxon: Routledge, 2015) pp.19-43

²⁷ See: Andreas Osiander, 'Sovereignty, International Relations, and the Westphalian Myth' in *International Organization* Vol. 55 No. 2 (Spring 2001) pp.258-287 ; Benno Teschke, *The Myth of 1948: Class, Geopolitics, and the Making of Modern International Relations* (London: Verso, 2009); Chapter 8 of Daniel Nexon, *The Struggle for Power in Early Modern Europe: Religious Conflict, Dynastic Empires, and International Change* (Princeton University Press, 2003); and Stephane Beaulac, 'The Westphalian Model in Defining International Law: Challenging the Myth' in *Australian Journal of Legal History*, Vol. 8 No. 2. (2004) pp.181-213

of territorial sovereignty where the nation state was the cornerstone of the international.²⁸ In contradistinction to the universalist aspirations of the Christian theocratic medieval world, the Westphalian model pushes Europe, and later the West, into a distinctly modern era, which cements the double bind of sovereignty as both absolute power over domestic subjects, as well as interlocutor in relations with other sovereign state powers.²⁹

Equal sovereign actors respecting the norm of autonomy is thus the pathway to peace. The treaties are understood to establish legal equality, and non-intervention, standards which were seemingly further enshrined in Article 2.7 of the UN Charter. In a revisionist investigation of the 'ideology of sovereignty' and its effects upon the development of IR theory, Osiander elaborates upon five common tropes of this typical founding myth: the thirty years war was a struggle between a 'universalist' power and individual states seeking autonomy; the peace of Westphalia enshrined sovereign equality, in a rejection of hierarchy; this encompassed all of Europe; this equality was secured through the principle of a balancing of powers; and the sidelining of Papal power. This shared pool of characteristics are traced, not to the treaties of Münster and Osnabrück, but rather to the interpretations of 19th and 20th century international lawyers of the peace of Westphalia, who held this as the beginning of European international law. Ignoring the historical realities and complexities of the peace reached and the order re-instated in Europe has carved out a smooth and unproblematic origin story of the emergence of the European nation state which serves as the template for international relations. As Osiander quips, how convenient and comprehensive it is that this legislation, a treaty of peace, should explain the main characteristics of our system: territoriality, sovereignty, equality, and nonintervention.³⁰ In this idealised vision of progress, the autonomous sovereign state emerged from a period of bloody war, to find peace in the institution of equality with legal precepts to structure this international system. The historical narrative entrenches the dichotomy of inside/outside, as the sovereign state of absolute power is responsible for the formulation of foreign policy and the assurance of a mutual respect in relations with other sovereign actors. The European state is thus essentialised as inherently pacific.

Assumptions about the fixed relation of the political-territorial international as constituted through equal sovereign units disregards the turmoil in Europe that raged from the mid-18th to the early 19th century. The shifting constellation of the meaning of sovereignty is explored by Alexander Murphy across social, technological, and economic developments that unsettle the bounds of the Westphalian international. The Prussian invasion of Silesia in 1740 ignited a series of territorial wars, a period of belligerence to which Murphy notes the Westphalian 'balance of power' had contributed, as territory became an increasingly significant signifier of power. The consolidation of territorial control

²⁸ See Hans Morgenthau, *Politics Among Nations*, p.294; Graham Evans and Jeffrey Newnham, *The Dictionary of World Politics: A Reference Guide to Concepts, Ideas, and Institutions* (New York: Simon and Schuster, 1990) p.501

²⁹ Jackson, *Sovereignty*

³⁰ Osiander, 'Sovereignty, International Relations, and the Westphalian Myth' pp.264-266

produced imbalances, and as the Holy Roman Empire declined "sovereignty thus came to be seen increasingly as a doctrine granting state leaders the right to do whatever was necessary to ensure the territorial viability of their domains, including launching an attack on a neighboring state".³¹ Not a recognition of equality but a struggle for dominance, power, and territory, the more powerful sovereigns subsumed smaller and weaker units and made claims to the land of rivals. The rising challenge to absolutist rule in the philosophical conception of nationalism further informed the "sovereign-territorial ideal". Conflict mired Europe as the bloody French revolutionary wars gave way to the imperial ambitions of the Napoleonic wars, and in Napoleon's defeat a coalition of powers sought to install a new legal and political order. The Congress of Vienna which took place from 1814 to 1815, occurred after the peace treaties had been signed, was led by four Great Powers (Great Britain, Russia, Prussia, and Austria) who saw themselves as the arbiters of peace in Europe. The resulting system is described by Gerry Simpson as a "legalised hegemony", a hierarchical relationship where the Great Powers "not only instituted a new political order in European affairs but did so using legal techniques that sought to entrench this dominant position".³² A pacific Europe based upon sovereign equality emerging from Westphalia is therefore not a claim based in history.

The religious element in the perpetuation of a notion of a 'secular' Westphalian state is also a neglected element in the perpetuation - or fetishisation - of this paradigm, particularly in light of the contemporary demonisation of Islamic states as being incompatible with individual rights, freedom, democracy and 'legitimate' statehood.³³ This Islamophobia can partly be read as (re)producing and being enabled through the Eurocentrism of the Judea-Christian mythology of the Westphalian model: the received wisdom holds that these peace treaties brought an end to decades of religious wars which had raged across Europe (and across Christian religions), resulting in the separation of the state from any individual duty of worship to a particular religion. The freedom of worship as an individual right of citizenship is thus inextricably tied with the nation state, with security, and with (European) conceptions of pacific international relations. This public/private distinction understands religion to be a private pursuit, as opposed to a communitarian way of life. Such a distinction can also be seen to perpetuate other dichotomies, and their implicit hierarchies, if religion must be subordinated to politics, this is also the debate of rationale over spirituality, mind/body, reason/emotion, progress/tradition, male/female. Progress is thus the exclusion of politics from public life, in the articulation of a developed, civilised, and industrialised society. The secularism understood to uphold peace and stability

³¹ Alexander Murphy, 'The Sovereign State System as Political-Territorial Ideal' in *State Sovereignty as Social Construct* (ed.) Biersteker, Weber (Cambridge: Cambridge University Press, 1996) p.94

³² Gerry Simpson, *Great Powers and Outlaw States: Unequal Sovereigns in the International Legal Order* (Cambridge: Cambridge University Press, 2004) pp.91-115 (Quote 105)

³³ See: Douglas Johnston, Cynthia Sampson (ed.), *Religion, the Missing Dimension of Statecraft*, (Oxford: Oxford University Press, 1996); Daniel Philpott, *Revolution in Sovereignty: How Ideas Shaped Modern International Relations* (Princeton: Princeton University Press, 2001); Cecelia Lynch, 'A Neo-Weberian Approach to Religion in International Politics' in *International Theory*, Vol. 1 No. 3 (November 2001) pp.381-408

both within and across states, is then embedded within the notion of international society as stemming from Westphalia, and in the post-colonial expansion of sovereignty, the assumption was that these new states must accept secularism as a point of entry into international society.³⁴ The Westphalian tale is a history as told through the lens of modernity, where order is imposed from chaos, and sovereignty imposes a structuring divide between the religious and political, the sacred and secular. The apparent separation of the political from the religious has been problematised, particularly with reference to the pervasive presence of religion in Western political theory, pointing to the relevance of alternative readings and religions.³⁵ As will be addressed later in this chapter, the suspicion of religion as an irrational and ultimately violent factor in state governance has been mobilised in the exclusion of *some* spaces as illegitimate.

Exploring the assumptions underpinning the assertion that critique in liberal democratic society is inherently secular, the edited volume of Wendy Brown, Talal Asad, Judith Butler, and Sada Mahmoud uses the example of the 2005 Danish Cartoon Affair/Crisis as a jumping off point to examine the multiple interconnections between notions of dissent, free speech, blasphemy, secularism, religion, Islamophobia, insult, and freedom of expression. Referring to the domestic realm, the illuminative case of the veil-ban in France is indicative of the suppression of the public expression of religion, and thus the exclusion of communitarian religious practices, what could and can be rendered suspicious as an alternative way of life.³⁶ Wendy Brown opens the volume with an interrogation of the meaning of the term secular, in the myriad, often conflicting, ways it is used. Secularism denotes a common sense idea which encompasses the institutions and practices in the West that separate the private show of belief (or lack thereof) from public life, as well as the making of a secular subject of Western, increasingly liberal democratic governments. The term is evoked for contradictory meanings as signifying anti-religious feelings, religious tolerance, humanism, Christian, or even Western. Brown then turns to the illuminative phenomenon in the US of the neoconservative evocation of 'secular', which drove domestic Christian worship in schools, while advocating secularisation in the Middle East, presumably as those states had not yet reached this standard of civilisation: "today the secular derives much of its meaning from an imagined opposite in Islam, and, as such, veils the religious shape and content of Western public life and its imperial designs".³⁷ The limitations of this stranglehold - the constitution of the self against the other - on the elaboration of IR thinking are manifold.

Such a view of an equal sovereign autonomy is a complete negation of, or an apologist stand on, colonialism, and gives lie to the Anglo-American dominance in International

³⁴ Samantha May, Erin K. Wilson, Claudia Baumgart-Ochse, Faiz Sheikh, 'The Religious as Political and the Political as Religious: Globalisation, Post-Secularism and the Shifting Boundaries of the Sacred' in *Politics, Religion & Ideology*, Vol. 15 No. 3, (2015) pp. 331-346

³⁵ Dipesh Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference* (Princeton: Princeton University Press, 2007)

³⁶ Talal Asad, Wendy Brown, Judith Butler, Sada Mahmoud, (ed.) *Is Critique Secular?: Blasphemy, Injury, and Free Speech* (Berkeley: The Townsend Center for the Humanities, 2009)

³⁷ Wendy Brown, 'Introduction' in *Is Critique Secular?* pp.9-10

Relations scholarship. From the standpoint of political geography, Agnew has applied an IPS approach to question the monopolising notion of 'territoriality' that has been affixed to state: the territorial bordering supposed as the paramount spatial logic champions a Eurocentric and transhistorical notion of statehood. Drawing our attention to the 'collective fiction' of equal sovereignty upon which major international institutions and related norms of political mappings are founded - we are all aware that not all states are equal in their capability to sustain borders, in their international standing, or in domestic legitimacy - Agnew proposes a geo-sociology that prioritises both historical and geographical contingency.³⁸

The Westphalian discursive formation of sovereignty is deeply Eurocentric. The division between civilised and barbaric was not only implicitly sustained by, but often openly heralded by international lawyers, and as Kayaoglu argues, European exceptionalism and Orientalism mutually reinforced each other in the drafting of a 'scientific' international law. The turn to positivist law encompasses the ascendance of 'scientific racism' which also embedded hierarchies into the recognition of sovereign capability. 'Scientific' international law, claimed as objectively superior, drew reference to the unique European ascendance of rationality and culture.³⁹ The construction of the Westphalian discourse in the 19th century, against the backdrop of the shift from Natural Law - whereby sites of law could emerge from various sources - to that of positive law - where the sovereign state inhabited the role as sole source of law for citizens and across nations - rested upon a value judgement as to the recognition of sovereignty. The capabilities of the West and subsequent production of norms, principles, and institutions have been sustained by the claim of a relative lack in those non-western spaces and peoples, who must be socialised in order to be recognised as sovereign, rather than as merely colonies or mandates. This is explicitly linked to the 19th century practice in international law of the 'standards of civilisation', as the proliferation of positive law linked the civil arrangement of states to their standing within international society. Whereas Europe had emerged from a history of religious intolerance and in-fighting - so the argument goes - this civilised society had not taken hold with the barbaric peoples of Asia and Africa, which formed a potent argument in the justification of colonialism, the 'white man's burden' of the civilising mission.

The standards of civilisation - which were in fact standards of sovereign ability - were also informed by practices of legal extraterritoriality. Those states which occupied the space in-between civilised and barbaric - China, Japan, and the Ottoman Empire - were recognised as 'sovereign' in terms of being exempt from colonial administration, but were, in Mao's words 'semi-colonies'. The sovereign authority of these governments over their own peoples was deemed to be sufficient, however, these legal systems were considered

³⁸ John Agnew, 'Continuity, Discontinuity, and Contingency: Insights for International Political Sociology from Political Geography' in *International Political Sociology: Transversal Lines*, (ed.) Basaran, Bigo, Guittet, Walker (Oxon: Routledge, 2017) p.

³⁹ Turan Kayaoglu, 'Westphalian Eurocentrism in International Relations Theory' in *International Studies Review*, Vol.12 No. 2 (June 2010) p. 203

incapable of holding Westerners to account, who were therefore protected by the extraterritorial jurisdiction of their consuls.⁴⁰ While there are no formal, codified standards of civilisation to refer to, international law by the late 19th century did refer to three tiers of states within the international society: the first were on a par with the Europeans and included the American states, Japan, and Turkey; the next level were the Christian, but nonetheless backward, states such as Liberia and Abyssinia; and finally, in-between-members, who were partially welcomed into the society of international society, but not the whole, comprising states like China, Morocco, Congo, and Persia.⁴¹ Thus, sovereign equality was not extended to the 'barbarous Asiatics', and the non-Western legal system was found wanting and insufficient in terms of international jurists - thus these states could not fully enter international 'society' as supposedly established in Westphalia. Oppenheim explicitly tied the sovereign test of 'civilisation' to 'white civilisation', in that a government had to be capable of controlling white men.⁴² While recognising the capability of their governance and jurisdiction over their own (read: lesser) people, this extraterritoriality cemented the institution of international law and society with European - and then Western - culture and history.

Returning to 'Hobbesian' IR theory, the English school has been an outspoken proponent of the Westphalian model: the instigation of the 'international society' from anarchic violence is tied historically and normatively to this peace - and therefore the corresponding European nation-state form. The school has also investigated 'standards of civilisation' as historical encounters between this 'international society' and those excluded, particularly focused upon the not-quite-civilised, and how these interactions were managed. The grand narrative presented by the English School envisions an expanding international society, whereby the 'others' are normatively socialised through benevolent interactions. The school as a whole is interested in international society, what makes a member, what must one do to reach that stage, how can this be sustained. The dominant account has largely held that the unique conditions in Europe enabled the rise of a system of diplomatic relations, and the regulation of those through the mutual recognition of a corpus of international law, which was understood to control relations in peace as well as in war times, as 'civilised' states were able to practice that restrain, and to actively pursue a balance of power to stabilise the community of nations.⁴³ There has also been renewed interest in questioning the possibility of contemporary re-articulations of standards of civilisation - namely human rights or global governance. The importance of interrogating how history oft-told is revelatory in contemporary standards of international recognition, as the English School commitment to Westphalian norms of sovereignty reproduce a Eurocentric international. Their normative focus privileges the knowledges of European IR as paramount, implicitly excluding the

⁴⁰ Jack Donnelly, 'Human Rights: A New Standards of Civilization?' in *International Affairs*, Vol. 74 No. 1 (1998) p.4.

⁴¹ Paul Keal, *European Conquest and the Rights of Indigenous People* (Cambridge: Cambridge, 2009) p.36

⁴² Oppenheim as Quoted in Donnelly, 'Human Rights' pp.4-5

⁴³ Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*, 4th ed. (Hampshire: Palgrave MacMillan, 2012); Adam Watson, *Hegemony and History* (London: Routledge, 2007)

experiences of 'others' and the violence of socialisation. The investigation of post-45, 'politer' criteria of civilisation such as human rights and democratic governance, upon the premise that international society became truly universal with the advent of decolonisation, will be addressed later, but suffice it to say for now that the normative expansion of the Westphalian features of sovereign-hood remain at the forefront.⁴⁴

The affirmation of a 'society' implies order, tolerance, and freedom that is therefore not present in those states remaining outside, seemingly characterised by disorder and intolerance. Membership of the international society is essentially anchored in considerations of legitimacy. Keal has criticised the Eurocentrism of the English School, and the normative powers of this society have been praised as engendering an ever expanding sphere of inclusion - read legitimacy - where today human rights records are used to establish boundaries of acceptable behaviour. However, this story enables only one narrative voice, and completely silences those indigenous peoples, whose place not only in the international society but as members of humanity were deemed illegitimate. This expansion is predicated upon dispossession, erosion of alternative cultures, and the denial of rights of indigenous people. The exclusions at the margins, is justified through reference to legitimacy, and civilisation, which paradoxically enables barbarism in their treatment: the discourse of failure is similarly grounded in a value judgement of ability. The rights of individuals within European states, was not afforded to those non-Europeans, and the expanding wealth and influence was dependent upon this denial of rights, all cloaked in a language of paternalistic care and 'society'.⁴⁵

As per Hedley Bull's argument of the anarchical 'society', Westphalia is pinpointed as the beginning of a recognition of other *equal* actors. Robert Jackson's articulation of international society is understood to hinge around the notion of 'pluralism': sovereign authority therefore institutes and upholds the distinction of the inside from the outside, the 'we' from the 'they'. Pluralism assumes unproblematically a normative reliance upon the recognition of equality, authority, and the right of nonintervention. While Jackson does refer to the previous, perfectly lawful interventions of colonialism that were founded in (racist) notions of the rights to conquest and colonise, he ties the contemporary pluralistic society to Hobbes' constitution of the supreme sovereign authority, arguing that pluralism enables equality and independence, which is the ground for security.⁴⁶ Jackson has referred to the recognition of equality as a measure not of population, territory, military might, or wealth, but a recognition of ability to partake in practices of law and diplomacy. Gong's study of 'standards of civilisation' faces the question of interaction among unequal capability with the expansion of European international society, in terms of commerce and diplomacy which demanded standards of governance and which he argues are dependent

⁴⁴ Barry Buzan, 'The 'Standard of Civilisation' as an English School Concept' in *Millennium: Journal of International Studies*, Vol. 42 No. 3 (2014) pp.576-594

⁴⁵ Keal, *European Conquest* pp.31-35

⁴⁶ Jackson, *Sovereignty*

upon reciprocity in law.⁴⁷ Both of these arguments therefore presuppose a singular articulation of law, of diplomacy, and of trade, establishing particular norms of conduct worthy of inclusion in international society, or resulting in the humiliation of being considered unworthy to control white men and therefore subject to extraterritoriality.

The articulation of 'laws of warfare', which will be discussed further in the following chapter, are also intimately related to the Westphalian narrative, identified as the starting point of international law. Within this international society, the restrictions upon violence when war broke out was also only extended toward other 'civilised nations'. In a circular, tautological argument, the bonds of civility were therefore only extended to those with that status, and the need for restraint was deemed inappropriate for the uncivilised, said to be incapable of showing (thus unworthy of receiving) such respect. This picture of a controlled and humane composure was apparently invalidated through the European barbarities of the second world war, thus supposedly rendering hierarchical civilisations as void and sparking decolonisation. The 'standards of civilisation' necessary to join the international society - using the logics of the English School - were scrapped in the universal recognition of a right to self-determination. This worldview is instrumental in the figuration of failed states as an almost inevitable consequence of unchecked sovereign powers and privileges. Sovereignty is painted as a privilege to be earned rather than a right that is given. The multiple exclusions that are reproduced through this assumption of successful sovereignty are the subject of this chapter.

A Few Words on Liberal Imperialism

Liberal imperialism is a constellation which sustains the paradoxical mission of acting for the rights and freedom of all peoples, while instituting illiberal practices for the 'backward' or the 'underdeveloped'. Central to the 'benevolent' civilising mission has been the stratification of nations according to teleological articulations of human progress. Famed liberal and utilitarian philosopher John Stuart Mill elaborated a four stage process of evolutionary development which culminates in representative government, which he champions as the best and most civilised form. According to this scale of progress, the relative development of a peoples determines the form of government that is suited to their needs and capabilities, in a progression of savagery to slavery, barbarism, and finally to civilisation. Each stage, of necessity, has a corresponding form of government. In the journey toward representative government, and readying the people for the exercise of civilised politics, Mills identifies two paths as emerging from history: either, the "rare accident of a monarch of extraordinary genius"; or, the imposition of a rule by people "superior in civilisation" which - notwithstanding the "inevitable evils" - "is often of the greatest advantage to a people, carrying them rapidly through several stages of progress, and clearing away obstacles to improvement which might have lasted indefinitely if the

⁴⁷ Gerrit Gong, *The Standard of 'Civilization' in International Society* (Oxford: Oxford University Press, 1984); Jackson, *Sovereignty*, p.66

subject population had been left unassisted to its native tendencies and chances".⁴⁸ The expeditionary logics of peace- and state-building from the post-Cold War, and particularly the push for regime change in the Bush Doctrine's embrace of 'anticipatory self-defence' (or preemptive war), could easily be thought of in terms of removing obstacles to 'freedom'. It is therefore imperative to expose the explicit racism expounded in foundational liberal theories of 'civilisation', which have been threaded through the assumptions of the international, and masked as a quantitative analysis of sovereign capability as the distinction between failed/successful states.

The famous treatise on the merits and detractions of humanitarian intervention penned by Mill in the aftermath of the Crimean War and in the context of (indigenous) unrest in the construction of the Suez Canal, considered the circumstances under which intervention could possibly be considered as a moral and justifiable practice in international relations. While Mill's determinations as to appropriate intervention in the affairs of another country are indeed limited, the exceptions that are outlined are telling, and the exclusions in what can even be considered a country even more so. Directly addressing the actions of England, and vehemently defending the courteous manner of their international affairs, Mill's musing on the question of intervention enforce a binary between 'civilised' and 'barbarous' states. Recognising the right of national self-determination and independence in the curbing of a rampant international power of disorder and accumulation is only extended within a particular scope. In the discussion of particular circumstances as exceptions to the overarching norm of nonintervention, the ability of a people to adequate nationhood is present as a qualifier.

In Mill's estimation, a just interference in the military operations of another cannot be for the furthering of territorial or financial aggrandisement, or to aggressively impose an ideology, but can only be in the advancement of peace - which include cases of civil war exhibiting "severities repugnant to humanity", or in self-defence. What constitutes 'peace' is therefore naturalised as outside of the dangers of ideology, as is the ascription of inhumanity - where violence to install 'peace' is legitimate. IR scholar and prominent proponent of the Democratic Peace Thesis Michael Doyle, ascribes to Mill the same values of the contemporary international landscape: a concern for the humanitarian principles, but one weighted by concerns of national self-determination and national security.⁴⁹ The opening of the short piece takes aim at the criticism that had been directed toward England due to their presence in other countries (namely India and China), before attempting to explain the perceptions of unjust or purely self-interested deeds abroad as merely a facet of the poor choice of words of English statesmen, which are bound by an incorrect and

⁴⁸ John Stuart Mill, *Representative Government* (Ontario: Batoche Books, 2001) pp.53-54; See also Beate Jahn, 'Barbarian Thoughts: Imperialism in the Philosophy of John Stuart Mill' in *Review of International Studies* Vol. 31 No. 3 (2005) pp.599-618; Mark Duffield, *Development, Security and Unending War: Governing the World of Peoples* (Cambridge: Policy Press, 2007) p.191-193

⁴⁹ Michael Doyle, *The Question of Intervention: John Stuart Mill and the Responsibility to Protect* (Yale: Yale University Press, 2015)

misleading understanding of the international.⁵⁰ Mill refers to the foreign policy of England as "a novelty in the world", a nation that has tirelessly worked to restore peace and civility, "the fruits it shares in fraternal equality with the whole human race", including the "barbarians" who wage aggressive wars, as he proclaimed the virtues of the country "whose foreign policy is, to let other nations alone [...] any attempt it makes to exert influence over them, even by persuasion, is rather in the service of others, than of itself".⁵¹ Mill chides both the interpretations of other countries and of the English themselves who see all meddling as immoral, selfish, and solely self-serving. Indeed, he questions the morality that underpins the logic of non-interference. Advocating the English conduct as springing from acts of humanity - not the glory of the nation - the shared progress of mankind is thrown into the question of intervention, particularly for those who cannot reach the height of Europe, financially or morally, without assistance. Presumably, those who need a helping hand in clearing out the obstacles, simultaneously excluding the European exploitation as aiding their development and hindering the colonised.

Discussing the importance of the Suez Canal, he places the extension of relations of trade, labour, and commerce, within a progression that would not only bring mankind closer together geographically but in the binding of moral fibre: "An easy access of commerce is the main source of that material civilisation, which, in the more backward regions of the earth, is the necessary condition and indispensable machinery of the moral".⁵² This espouses the civilising effects of trade and particular organisations of labour power, and Mill even draws a distinction between the 'self-improving' nations and the 'unimproving', an early example of the deep rooted and pervasive belief that Fanon diagnosed, whereby the developed, or indeed 'self-improving' nations had achieved this through their own merit. This failure to recognise the complicity of interference in the apparent barbarity of the 'unimproving' demarcates a boundary of self-reliance and management, regarding the peoples of barbarous spaces as unable to create the organisations of liberty. The civilised/barbarous divide in the international is inherent to Mill's morality, the profile of the 'barbarous' must be inferred throughout his writings, as he did not explicitly outline his understanding. Aside from the aforementioned, in Mill's estimation, the lack of civilisation of the barbarians "was revealed by the fact that they only understood force, did not practice reciprocity, and could not be trusted to tell the truth".⁵³ The recognition of rationality was therefore central to civilisation, the recourse to force derided as barbaric. Further, the lack of a mutuality of trust, renders diplomacy redundant. How can one expect an irrational and untrustworthy people to follow the rules? Such exclusionary criteria for participation, the game of 'reciprocity' constructed around these distinctions, find reflection in the image of the unable or unwilling state, which cannot be expected to control its borders or protect the

⁵⁰ John Stuart Mill, 'A Few Words on Non-Intervention' in Michael Doyle, *The Question of Intervention: John Stuart Mill and the Responsibility to Protect* (New Haven: Yale University Press, 2015) pp-205-226

⁵¹ Mill, 'A Few Words' p.2

⁵² Mills, 'A Few Words' p. 3

⁵³ Carol Prager, 'Intervention and Empire: John Stuart Mill and International Relations' in *Political Studies* Vol. 53 No. 3 (2005) p.622

international community. Establishing the rules of international society, the outside is characterised through inability and untrustworthiness, reduced to brute force. The question of sovereignty across this divide also came down to the ability to recognise and establish nationality, as a cohesive force of liberty, security, and order.

Further, the endpoint is portrayed as singular, any unimproving nation must embrace commerce in order to achieve morality. The morality of non-interference is questioned by Mill when it is merely a question of short-term inconvenience that would result in long term prosperities, these benefits being for the whole of mankind and therefore surely undoubtedly wrong to keep to themselves. This dichotomous vision of international ethical conduct is again affirmed, as Mill demarcates a zone of equitable respect and conduct of civilised peoples, such as 'Christian Europe', excluding the 'barbarians', who cannot uphold the simple relationship underpinning any international rule, reciprocity. The rules of the game then contain a circular logic of exclusion, as the ability to enact reciprocity is the standard of international law and morality to recognise sovereignty, while the recognition of sovereignty is necessary for the capability of being reciprocal. This fundamental lack translates into a justifiable need for conquest and education, the 'white man's burden' in its blatant moralising: the independence and nationality that had been enjoyed by the Europeans was understood to have been reached through processes of sovereign maturity, thus privileges that could not be untrusted to the junior, inferior, immature, backwards Other. The principles of non-interference according to Mill are grounded in a false understanding of the law of nations, as the 'barbarous' cannot be held to aequitable standards as nations, equal partners. Indeed, these spaces do not enjoy the rights of nations, other than the right to aid in support of their gaining sovereign equality: that is, to the colonial pillaging and enslavement presented as a prep school for introduction into international society. To invoke any law of nations in such a circumstance for Mills is folly, as he determines that "the only moral laws for the relation between a civilised and a barbarous government are the universal rules of morality between man and man".⁵⁴ How this law is supposed to be upheld and enforced in the absence of citizenship is not explicated, other than assurances as to the civility of the occupying force, any outrage concerning French conduct in Algeria or English in India, surely emanating only from the application of false moralities. As will be explored throughout this chapter, the ascription of failure or fragility rests upon this calculation as to the ability of a people to be self-reliant, of a government to be capable of upholding the norms of sovereignty, and if found wanting, the international community may flaunt such standards. Condemnation of intervention is considered by Mill as rather empty, self-aggrandising, and ultimately dangerous as it blocks the development of the 'unimproving', and with it, the peace to the civilised neighbours, who had no choice in the composition of the neighbourhood. Turning to the question of humanitarian interventionism, in terms of the historical trajectory, we will again be forced to confront the question of liberal imperialism, addressing the need to unearth the racist assumptions that

⁵⁴ Mills, 'A Few Words', p.5

separate humanity, while acting in the name of humanity. The assessment of sovereign capability, rationality, effectiveness, and humanity have taken on a common-sense form, presented as quantifiable factors which can be formulaically assessed.

3.2. Humanitarian Intervention: The Burden of Imperialism

"There is no human right to the status of barbarism"

- John W. Burgess, *Political Science and Comparative Constitutional Law* (1893)

The question of what constitutes a 'humanitarian intervention', particularly in a historical context, has been the focus of a spate of recent publication, both in academia and beyond. Much of this literature has been centred upon debunking the supposed novelty of the practice, in response to the realist attack on the pitfalls of moralism which essentially throws into question the utility - or even possibility - of 'humanitarian' action. There has been a growing engagement with the process of unearthing a long(er) history of the discourse and practice of states intervening in the sovereign borders of another in order to alleviate human suffering. In the words of Simms and Trim, the concept has been "treated as though it were a subject without history".¹ The repeated and underlined aim of their edited volume, is to place historical precedent squarely in the limelight. The need for such a riposte (even beyond the realist grumblings) is seen to be evidenced in the arguments of Gareth Evans, one of the leading architects of the Responsibility to Protect doctrine - the well-known and controversial contemporary legal framework affirming a sovereign responsibility to prevent mass atrocities, which can then be taken up by the international community. Reproducing a Westphalian historical formation, Evans does recognise some instances which could be considered interference in the name of humanitarian causes in the intervening 400 years. However, he nonetheless characterises the period between the Westphalian founding of sovereignty to the apparent shattering of this consensus in the cataclysm of the Holocaust as the formation of a nation-state system wherein "indifference simply became institutionalised".² The apparent salience of the norms of the Westphalian model of sovereignty has been an integral motif of understanding of the novelty of humanitarian intervention, whether critical or celebratory.

The pervasive staying power of this founding myth in IR, thus structuring policy assessments and popular consciousness of interventionism, must be interrogated as enforcing racialised notions of capability. This thesis is not concerned with exposing ulterior motives that are consciously made palatable through the evocation of moralistic flourishes of humanity and right. Rather, focus is placed upon the reproduction and legitimisation of hierarchisation in the historical rhetoric of humanitarian 'rescue'. Pointing to disingenuous moralisms fails to account for the illiberalism that sustains liberal governance and influence: the goal is to problematise references to universal humanitarian instincts, and the exclusions from humanity upon which the 'human' is presupposed. International law presents a neutral construct of sovereign equality however, variances of capability and

¹ Brendon Simms, D.J.B. Trim, (ed.) *Humanitarian Intervention: A History* (Cambridge: Cambridge University Press, 2011) p. 2

² Gareth Evans, 'The Responsibility to Protect: Ending Mass Atrocity Once and for All' in *Irish Studies in International Affairs* Vol. 20 (2009) p.7

legitimacy abound in the foundational logics structuring the international 'society'. The ahistorical lifting of sovereignty norms today reinforces such power hierarchies, and further, effaces the specifically Eurocentric, later Western-centric, application of the privileges of sovereignty presented as universal. How is it that (national) security has come to be tied to humanitarian disasters, and more generally to the sovereignty of others when deemed problematic?

Legal Wrangling

While debates that revolve around the possibility of a Responsibility to Protect - as exposing the tension codified within the UN founding documents between non-interference and the protection of humanity - often frame this humanitarian impulse as a novel question for international law; Heraclides and Dialla have sketched out a debate that lasted for around a century, crossing from the 19th to the 20th (1830-1930), between international jurists on the subject. The authors argue that the roots of humanitarian intervention, and the conflicts of interest and opinion, were planted in the long 19th century: identifying one hundred publicists who explicitly addressed the question in this period, 62 supported the notion and of those supporters, 48 referred to the necessity of an exceptional situation, while 14 drew upon moral or political reasoning.³ Legal debate on the matter can therefore hardly be dismissed as niche; however, this framing very much focuses upon - and limits participation in - the US and Western European context. It was in these academic milieus that international law first became a discipline in the 1860s. Prior to this institutionalisation, what has been widely regarded as the first formulation of an explicitly *humanitarian* motive for intervention in sovereign space was articulated by the US jurist Wheaton, who commented on the subject of European - and specifically Christian - 'interference' in the Greek independence struggle from the Ottoman empire in 1836. He argued that this example proved the need for further elaboration of the principles of international law on the matter of intervention, "not only where the interests and safety of other powers are immediately affected by the internal transactions of a particular state, but where the general interests of humanity are infringed by the excesses of a barbarous and despotic government".⁴ Further, Trim argues that while the label 'failed state' is new, the problematic therein is not, in fact boasting a long history. The inability, read as failure, of states to meet certain (contingent) standards has historically been mobilised to create consensus on the need to intervene, informed by the logic that spaces unable to maintain their sovereign duties make for bad neighbours, unable to uphold the mutual relations of reciprocity. Such assertions have engendered the 'racial contract' discussed above, in the much feared anarchy of the inferior Other. With the issue of failure, comes the question of success. Whether diplomatically or militarily intervening, the larger objective or intention of

³ Alexis Heraclides, Ada Dialla, *Humanitarian Intervention in the Long Nineteenth Century: Setting the Precedent* (Manchester: Manchester University Press, 2015) pp.57-73

⁴ Wheaton quoted in Heraclides, Dialla, *Humanitarian Intervention in the Long Nineteenth Century*, p.59

regime change is inevitably brought into the fold. Trim notes that some shift in regime is inevitably the desired outcome of any intervention, whatever the intent behind this change, humanitarian or otherwise: some change is always sought. Regime change as the redress for state failure is then tied to Kant, who sanctioned "forced constitutional change against regimes that were serious and persistent violators of international law".⁵ I will return to Kant's intervention later in the chapter; however it is important to redress a few issues of language at this point.⁶

As the Kant quotation is followed by reference to the Nuremberg trials, as well as human rights violations being effectively a breach of international law, there is no recognition of the nuances between roguery and failure. The wilful violation of international law has come under the rubric of the outlaw or rogue state: we cannot call Nazi Germany a failed state. There is an important distinction in this problematisation of good governance, whether a government cannot control violent forces - i.e. loses the monopoly on violence - or whether this monopoly on violence is used as state terror (recognising, of course, that only some state violence is seen as illegitimate). This leads to a larger point of clarification, that constitution of failure is not an objective fact: while, of course, this is not to say that there are not governments who fail to provide for their population or who actively endanger them; however, the markers of appropriate care have been put in place, privileging certain perspectives and suppressing others, which problematises *some* behaviour as failure and others not (for example, is health care a human right?). Attributions of atypical, abnormal, and ultimately punishable behaviour reproduce underlying logics and hierarchies of legitimate governance: this is the constitution of spaces of inability or unwillingness. Taking into account this longer history of spaces problematised as less-than-sovereign, how has sovereignty been reshaped and reconceptualised across the struggles of self-determination and the processes of developmental aid, particularly with reference to the dynamics of decolonisation: has the knowledge of what it means to be a sovereign power shifted, and has the necessity to gain recognition as a sovereign power become more pressing?

The question of humanitarian intervention is framed as a question of an explicitly moral foreign policy, one that is informed by the need to rescue humanity, regardless of international societal norms. However, humanitarianism is also informed by myriad other interests which cannot always be disentangled, including geopolitics, economics, and security - the particular constellation shifting over period and place.⁷ In a self-professed attempt to rescue the notion of humanitarian intervention from the charge of a lack of historical precedence, Bass presents a historical tract that is explicitly targeted toward two groups of deniers: first, Bass refers to 'realists', who reject moralism as endangering the balance of power; and then to the dictators and authoritarian rulers, who are able to hide

⁵ D.J.B. Trim 'Conclusion: Humanitarian Intervention in Historical Perspective' in *Humanitarian Intervention: A History*, (ed.) Simms, Trim (Cambridge: Cambridge University Press, 2011) pp.393-394

⁶ See chapter 3.4

⁷ Fabian Klose, 'The Emergence of Humanitarian Intervention' in *The Emergence of Humanitarian Intervention: Ideas and Practice from the Nineteenth Century to the Present*, Klose (ed.) (Cambridge: Cambridge University Press, 2015) p.13

behind cries of imperialism as well as calls to Westphalian non-interference. References to radical novelty, to the abandonment of restraint, as well as accusations that a new humanitarianism solely provides convenient mask for nefarious intent are ahistorical, and Bass responds with a history of 19th century humanitarian interventionism. This search for origins posits a fundamentally liberal humanitarian impulse, as Bass argues that in liberal states "the ambit of solidarity is potentially unlimited", able to encompass the human race, in contradistinction to exclusionary ideologies such as pan-Arabism.⁸ In positing the existence of a fundamentally liberal capacity for humanitarian protection, Bass also draws upon the aforementioned Mill text 'A Few Words on Non-Intervention'; however, there is no reference made to the exclusions of humanity therein. Does this liberal humanity therefore systematically exclude the 'barbarous'? Such an oversight contributes to the papering over of the caesura within 'humanity' that underpins liberal imperialism, thus tackling an ahistorical reading of humanitarianism with a white-washed alternative. Is pan-liberalism really so inclusive? Contesting Kissinger's complaint of the 'abrupt abandonment of the concept of sovereignty' in the aftermath of the Kosovar War, Bass refers to the 'malleability of sovereignty; throughout the 19th century, a creative and active diplomacy is argued to have reconfigured and delineated sovereignty, through processes including the drafting of treaties denoting which countries could interfere, where and when.⁹ This instrumentalising of international law can be read through an inverse line of critique, which arrives at a completely contradictory endpoint. Rather than celebrating the historical 'malleability of sovereignty', this recognises the contingent of *some* sovereignties as upholding exceptionalism in international law.

The Reason of the Strongest: Becoming-Sovereign

Much of the commentary of the Global War on Terrorism, places this seemingly endless conflict within a trajectory of imperialism, which even Michael Ignatieff approvingly refers to as 'Empire Lite' (the 'humanitarian empire'). From this premise, the critical literature has focused upon the overt and covert practices of the war as an aberration, as a contravention of international law, which then render Bush and Blair as war criminals. Mark Neocleous posits a shifted perspective on this 'colonial present', one in which international law itself has been constituted and (re)produced in such a way as to facilitate the (continuous) war of accumulation, what David Harvey refers to as the new imperialism of "accumulation by dispossession".¹⁰ Stretching beyond the hallowed point zero of International Relations, Westphalia, Neocleous points to the earliest articulations of a universalist and humanitarian international law, forged in the context of the early wars of colonisation. Hugo Grotius is commonly seen as principal forerunner of international law as we know it today - and we

⁸ Gary Bass, *Freedom's Battle: The Origins of Humanitarian Intervention* (New York: Alfred A. Knopf, 2008) p.23

⁹ Bass, *Freedom's Battle*, pp.352-355

¹⁰ Mark Neocleous, *War Power, Police Power* (Edinburgh: Edinburgh University Press, 2014); David Harvey, *The New Imperialism* (Oxford: Oxford University Press, 2003)

will return to him later in regard to limiting warfare - but a 16th century thinker must first be considered with regards humanitarian intervention, and how our supposedly neutral assumptions of universal law have shaped encounters across sovereign divides from the very beginning.

The work of Francisco de Vitoria, philosopher and jurist in renaissance Spain, is regarded as a progenitor to both international law and just war thinking.¹¹ Two lectures in particular - *De Indis Noviter Inventis* and *De Jure Bellis Hispanorum in Barbados*, on 'American Indians' and the laws of war respectively - have been regarded as foundational texts for international law, and both address the question of the Spanish encounter with the native peoples of America, referred to as Indians. International law scholar Antony Anghie has complicated this reading, by suggesting that Vitoria's reconceptualisation of international law justified colonialism through a language of equality. The universalism that Vitoria proposes rejects the divine right of Papal authority that had structured conquest along the notions of Christian/Heathen; Anghie argues that in Vitoria's numerous references to the 'novelty' of the 'discovery of the Indians', the tenets of modern international law - and the central notion of sovereignty - were thus born from a colonial encounter, and not simply transposed from West to the 'Rest'.¹² Establishing and sustaining order between sovereign states has been perpetuated as the central and foundational problematic of the disciplinary pursuits of international law, which is reflected in subsequent scholarly interaction with Vitoria: the texts have been read as attempts to negotiate competing (equal) sovereignty claims. Against this tendency to transpose contemporary notions of the fictive sovereign equality, Anghie proposes a "prior set of questions" that form the substance of Vitoria's analysis as a break from the divine law: "Who is sovereign? What are the powers of the sovereign? Are the Indians sovereign? What are the rights and duties of the Indians and the Spaniards? How are the respective rights and duties of the Spanish and the Indians to be decided?"¹³

While Vitoria has been argued to be an initial champion of a universal humanitarian conception of international law, in recognising Indians as part of a human community, we must recognise the status that was bestowed upon native peoples in colonial contexts, a relationship which continues to this day. Vitoria rejected the exclusion of non-Christian people, rather focusing upon *cultural* difference, thereby seemingly instituting some semblance of equal recognition. However, the 'universal' practices which are used to denote an ideal human' embody *Spanish* characteristics, cultural practices, as well as economic and social structures - that is, the universal is that of the metropole. Vitoria's theorisation of a new, secular international law characterises the 'Indians' as subjects that possess reason

¹¹ Georg Cavallar, *The Rights of Strangers: Theories of International Hospitality, the Global Community and Political Justice Since Vitoria* (Aldershot: Ashgate, 2002)

¹² Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (pp.29-30). Sovereignty doctrine acquired its character through the colonial encounter. This is the darker history of sovereignty which cannot be explored or understood by any account of sovereignty doctrine assuming the existence of sovereign states

¹³ Antony Anghie, 'The Evolution of International Law: Colonial and Postcolonial Realities' in *Third World Quarterly* Vol. 27 No. 5 (2006) p.322

and humanity, but this inclusion elicits disciplinary measures, correctional lessons of reasonable conduct. As reasonable peoples, they are subject to the prescripts of 'jus genitum'. The conclusion that "Spaniards have the right to travel and dwell in those countries, so long as they do no harm to the barbarians" is presumed upon natural law: "what natural reason has established among all nations is called the law of nations".¹⁴ The natural law of secular sovereigns then include both the 'Indians' and the Spaniards under the jurisdiction of 'jus genitum', where the 'barbarian' is bound to the rights and duties of the 'law of nations'. An assumption of equality ultimately legitimises Spanish presence in 'Indian' territory, as Vitoria goes on to argue that it is an "act of war" to expel or to refuse entry, and that "since the barbarians have no just war against the Spaniards, assuming they are doing no harm, it is not lawful for them to bar them from their homeland"¹⁵. The neutrality of the encounter is assumed, and any friction occurring solely from an 'unlawful' restriction from the 'Indian'. Where any protest or incursion of the 'right to travel' of the Spaniards in Indian land is punishable, the hierarchy of legitimacy is baked into the law, governing the interaction of the indigenous people through the encounter of the coloniser.

It is not only the right to travel that is codified, but relations of commerce and accumulation are also normalised and universalised, through claims of mutual benefit, reciprocity and a (human) right to trade, thus recognising the fundamentally liberal right to property. Anghie conceptually poses this distinction as a contradiction between the 'universal' and 'particular' Indian.¹⁶ The 'Indian' is understood to possess the *potential* to be equal, but only when subjected through a process of maturing in accordance with Spanish, 'universal' norms, thus existing simultaneously within and without civilised humanity. This inclusion serves to mark the Other as capable of becoming whole, but crucially, as not yet there: they are capable of becoming, but due to this *unrealised capacity*, remain in a state of becoming-human. Thus, this international law may recognise and include the native, but only in accordance with prescribed rules and norms, in order to pacify any resistance to accumulation. Equality and reciprocity serve to provide a gleam of 'neutrality' to particularly Eurocentric notions of how society should be organised and ways of living, while also serving to ease the extension of propriety and commerce. Enshrining the fundamental 'freedom of movement' of both the Spaniards and of trade, 'freedom' and right are tied to European values and the sanctity of private property: any activity that hinders these freedoms are therefore subject to punishment and correction.

The logic of a reciprocal and equal law, but one which actually reproduces a specific way of life as correct and lawful, then legislates for violence as a pacifying force necessary for humanity. Embedded within universality is an apparently neutral specificity. The colonial right to war for accumulation, was framed by Vitoria as waging war for the protection of trade: "if the barbarians [...] persist in their wickedness and strive to destroy the Spaniards,

¹⁴ Francisco de Vitoria, 'On the American Indians' in *Vitoria: Political Writings*, (ed.) Pagden, Lawrence (Cambridge: Cambridge University Press, 2012) p.278

¹⁵ Vitoria, 'On the American Indians' p.278

¹⁶ Anghie, *Imperialism, Sovereignty, and the Making of International Law*, pp.17-23

they may then treat them no longer as innocent enemies, but as treacherous foes against whom all rights of war can be exercised".¹⁷ This right to war, understood as a policing action to curb 'bad behaviours' is the focal point of Neocleous' critique: the right to violence is perpetuated by the claim of spreading liberty, spreading peace and the mutual benefit of commerce. Indeed, Vitoria argues that war itself is conducted by Christians with the aim of peace and security, "war is waged to produce peace", war is then for humanitarian ends.¹⁸ The colonial war envisioned by Vitoria was permanent; a never-ending war that either enables trade or destroys the obstacle, the native people: peace is war. The entanglement of war and peace in the juridical framing of colonial relations (those of violence and accumulation masked as free trade and equal natural right) is highlighted by Neocleous as central in the emerging law of nations, where the permanent colonial war of peace transformed the state, "not only was the development of the state machine being accelerated as the monarchy and republics of Europe centralised and nationalised, most notably in the major colonising powers of England, Spain, the Netherlands, and France, it was being accelerated as a war machine".¹⁹ Peace had to be created and sustained, through this 'universal' law of particular practices, which refer to specific cultural differences and subscribe behaviour that facilitates accumulation, and the legitimising of violence in the name of peace. In the words of Foucault, peace is coded war.²⁰

The foundations of international law, while evoking a doctrine of recognition and equality in the face of a secular, natural law, monopolises the terms of the justice and peace, legitimising the waging of violence against any behaviour deemed inappropriate or dangerous. In the provision of natural law as explored by Vitoria, the problem to be solved is not the management of order between equal sovereign entities, but rather mediating two radically different cultures, where the 'unnatural' behaviour of the 'barbarians' constitute acts of aggression. The tension between the universal and particular, the natural and 'unnatural', runs through the international law and underpins liberal imperialism, where illiberal violence for liberal means is considered universal, natural, and ultimately just. Racialised logics of capability are reproduced in the application of a Eurocentric, colonial framework of reference to the cultural practices of the Other, whose 'unnatural' behaviours are excluded from their nonetheless recognised humanity, and possibly rendered dangerous if believed to impede the natural rights of commerce.

The historical 'malleability of sovereignty' referred to by Bass can be compared to what Derrida understands as "the reason of the strongest".²¹ Interrogating the use of the 'rogue

¹⁷ Vitoria, 'On the American Indians' p.283

¹⁸ Vitoria, 'On the Law of War' in *Vitoria: Political Writings* (ed.) Pagden, Lawrence (Cambridge: Cambridge University Press, 2012) p.321 "War is waged to produce peace, but sometimes security cannot be obtained without the wholesale destruction of the enemy. This is particularly the case in wars against the infidel, from whom peace can never be hoped for on any terms; therefore the only remedy is to eliminate all of them who are capable of bearing arms against us, given that they are already guilty."

¹⁹ Mark Neocleous, 'War as Peace: Peace as Pacification' in *Radical Philosophy* Vol. 159 (Jan/Feb 2010); Neocleous, *War Power, Police Power*, p.19-36

²⁰ Foucault, *Society Must Be Defended*, p.51

²¹ Jacques Derrida, *Rogues: Two Essays on Reason* (trans.) Brault, Nass (Stanford: Stanford University Press, 2005)

state' label, Derrida questions the construct of security, highlighting the practices of international security which can be reduced to a principles of 'might as right'. Telling examples include the exclusion of the non-citizen in 'rights to remain' as well as border surveillance and deportation, practices designed to protect the internal from the unwanted external. Additionally, the composition of the UN Security Council is called into question, as a relic of victor's justice.²² Lasting peace is then negotiated through the continued power relations established in war. Indeed, Bass notes that liberal countries and commentators have despised, derided, and delegitimised interventionism when weak. In the chaos of the settling revolution, France attempted to enshrine non-intervention and autonomy as the cornerstone of any new international law which would follow this changed sovereign relation, post-monarchy.²³ Just as the recognition of sovereignty infers a certain protection and privilege, so does the recognition of humanity. The debates of humanitarian intervention centre around these two poles, namely, how to reconcile state sovereignty as an organising principle of international society with the protection of humanity. As has been shown in the recent literature, and as addressed by Mill, this is not a new question: the way that this problem of humanity and sovereignty has been approached exposes how notions such as reciprocity, legitimacy, and humanity are considered in international society.

Utopian Focus which is Always Being Revived

Aside from the more general dynamics of humanitarian intervention, grounded upon the logics of European exceptionalism as foregrounded in the last chapter, is the specifically US dimension as the exceptional 'first new nation', said to be completely founded in liberty without the shackles of past monarchical power struggles and exclusive religious rights. The mythology of exceptionalism is an important factor in any discussion of US interventionism: this discourse holds that the US has a unique role in human history, as a state born in revolutionary liberty and religious tolerance, Hegel's "land of the future", the "shining city upon a hill". The 'New Nation' of the US, reproduces notions of white supremacy and racial hierarchies of capability, completely effacing the devastation wrought upon the native peoples, the same indigenous group whose apparent (failings) of equality founded the (Euro-exceptional) international law, establishing the right to intervene.²⁴ Discussing the specificities of American (neo)liberalism, in distinction to the European version(s) which encompass political and economic choice that were formed in the locus of governmental power, Foucault notes that the relations of governed and governors centres around questions of freedom. US liberalism as "a whole way of being and thinking" is not simply a

²² Derrida, *Rogues* pp.98-99

²³ Bass, *Freedom's Battle*

²⁴ American Exceptionalism is an amorphous, and much debated topic. As a brief reading list, see: Seymour Martin Lipset, *American Exceptionalism: A Double-Edged Sword* (New York: Norton, 1996); Siobhán McEvoy-Levy, *American Exceptionalism and US Foreign Policy: Public Diplomacy at the End of the Cold War* (Hampshire: Palgrave, 2001); Donald E. Pease, *The New American Exceptionalism* (Minneapolis: University of Minnesota Press, 2009)

political category but rather straddles the political spectrum, encompassing a way of thinking and an imagination, "it is also a sort of utopian focus which is always being revived".²⁵ Liberalism, and fundamentally the negotiation of what liberty means, has been present throughout the nation's history, and with the rise of American neoliberalism, not only the economic but social and political rationalities give rise to subjectivities of the entrepreneurial tenor. In relation to the notion of Manifest Destiny, which will be explored in the following section, the political character of this divine project of expanding liberty was led by what Pratt refers to as "the God of Democracy", whose "followers had no doubt that he had reserved the continent for a democratic nation".²⁶

John Withrop's 'City upon a Hill', Tocqueville's description of the exceptional nation, the belief in a Manifest Destiny, New World Order, the 'Indispensable nation': these represent some of the most famous touchstones and signifiers that construct the discourse of American exceptionalism. Interpreted by Siobhán McEvoy-Levy as a "para-ideological umbrella", it encompasses a set of interrelated themes and ideas resulting in shifting interpretations and applications which have played an enduringly central role in foreign-policy making and legitimising.²⁷ Throughout the twentieth and into the twenty first centuries, the indelible influence of President Wilson and his vision for the recreation of the post-War world order have formed a central tenet of U.S foreign policy and ideas of exceptionalism. In a speech delivered before the graduating class of the United States Naval Academy in 1914, Wilson stated that America was distinct in its war-making as where other nations have fallen to the temptation of using force for exploitation, the U.S. would fight only "for the elevation of the spirit of the human race".²⁸ Famously, in outlining to Congress the necessity of American entry into the First World War he declared: "The world must be made safe for democracy. Its peace must be planted upon the tested foundations of political liberty. We have no selfish ends to serve. We desire no conquest, no dominion".²⁹ His foreign policy objectives were grounded in the conviction that it was the moral obligation of America to spread its democratic, and ultimately exceptional ideals for the betterment of humanity. This missionary aspect of exceptionalist discourse invokes the sense of an inescapable duty, or destiny, to ensure the expansion of their superior values to achieve a state of perpetual peace. Despite his failure to persuade American inclusion in the post-War peace process central to his view of reconstruction, the key tenets of his worldview have consistently been revived and recalibrated. The colonial and imperial intentions of US foreign policy have been a common point of attack, re. Kissinger's Cambodia, Reagan's Contra, and Bush waging "civilisation's fight". In the case of

²⁵ Foucault, *Birth of Biopolitics*, pp.218-219

²⁶ Julius W. Pratt, 'It Was A Courant Manifest Destiny' in *American Imperialism in 1898: The Quest for National Fulfilment* (ed.) Miller (New York: Wiley, 1970) pp.23-24

²⁷ Siobhán McEvoy-Levy, *American Exceptionalism and US Foreign Policy: Public Diplomacy at the End of the Cold War* (Hampshire: Palgrave, 2001) p. 23

²⁸ Woodrow Wilson, 'US Naval Academy Commencement Address' Annapolis, Md. (5 June 1914)

²⁹ Woodrow Wilson, 'Address to a Joint Session of Congress Requesting a Declaration of War Against Germany' Washington DC (2 April 1917)

humanitarian intervention, there is a prior instance in US history, which it would be remiss to fail to refer, even if fleetingly.

America's Burden

In the pursuit of historical precedent of humanitarian intervention beyond the 1990s, the US intervention in Cuba has provided one of the most controversial chapters. The constitutive relationship of the sovereign and the not-quite-sovereign in international law, and the blurring between empire and exceptionalism, can be explored through the US, Spanish, and Cuban War, and the subsequent American-Philippine War.³⁰ The motivations have been interrogated and criticised intensively, particularly in light of the US gains from this war with the colonial power: Spain did not only relinquish sovereignty over Cuba (which then became an American protectorate), but ceded Puerto Rico, Guam, and the Philippines to the US, while also providing a catalyst for the annexation of Hawaii. This is a pivotal moment in the ascendance of the US to world power status, before the Wilsonian era of the first world war which is bound up with mythology and platitudes. It has often been considered, and as a result cited less in relevant literature, as the least altruistic of similar expeditionary humanitarian action of the time, due to perceived dubious motives. There has been much debate as to whether or not the war was justified on humanitarian grounds, referencing myriad other reasons and interests that were at play.³¹ However, it must be noted that the question of freedom was mobilised by many at that time: not only by the US government and supporters of intervention - from reasons to go to war in order to liberate Cuba and in reference to the administration of these (post)colonial spaces. Freedom also provided a language through which to voice opposition for those in Congress who perceived hypocrisy and decried colonial endeavours.³² While this cannot provide a substantial contribution to the knowledge on this war, this section will rather interrogate the humanitarian arguments posited, looking at how freedom and humanity framed the ventures of a former colony in the liberation of two colonial spaces from a colonial power. The discursive formation of an emancipatory and paternal US power interweaves both American and European exceptionalist narratives. It is an oft-referenced - perhaps overly - but an illuminating point nonetheless, that Kipling's (in)famous poem justifying colonialism in reference to white supremacy *White Man's Burden*, originally boasted the subtitle 'The United States and the Philippine Islands'. As such, it contained a recognition of the righteous

³⁰ It is often referred to as the US-Spanish war which is in itself excluding the presence and agency of the colonies as having any part in the matter, only recognises the 'sovereign states'.

³¹ A Concise summary is presented in: Simon Chesterman, *Just War or Just Peace?: Humanitarian Intervention and International Law* (Oxford: Oxford University Press, 2001) pp.34-35; Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, 5th ed. (New York: Basic Books, 2015)

³² Mike Sewell, 'Humanitarian Intervention, Democracy, and Imperialism: The American War with Spain, 1898, and After' in *Humanitarian Intervention: A History*, (ed.) Simms, Trim (Cambridge: Cambridge University Press, 2011) p.303

place of the US in the civilising mission bestowed upon the Anglo-Saxon race, a reference which is said to have pleased Roosevelt.³³

In considering the context of the US intervention abroad, one must reference the Monroe Doctrine, the foreign policy stance of the US toward European involvement in the Western Hemisphere throughout the 19th and early 20th centuries. While often heralded as an anti-imperial policy, it is best described as an anti-European-conquest doctrine. President Monroe's seventh annual address to Congress laid out the central tenets of what would become a defining international/hemispheric policy stance. Considered the statement of anti-European interference, he articulated three central tenets: first, "the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers"; secondly, that the US would not interfere in European affairs; finally, he warned that, while the US would leave any pre-existing colonies or protectorates alone, if a European power attempted to control or oppress the destroy of any state which had attained or maintained independence, such an action could be not be conceived "in any other light than as the manifestation of an unfriendly disposition towards the United States".³⁴ The Monroe Doctrine became a watchword of US policy toward their American neighbours, but a more active role for the US in the affairs of the Western hemisphere was legislated in 1904 in the 'Roosevelt Corollary'. In light of the Venezuelan crisis of 1902-1903, where Venezuelan refusal to pay foreign debts had resulted in a blockade, Roosevelt added the corollary in order to ensure the Hemispheric commitment to creditors. The Corollary recognised a benevolent responsibility for the US:

"All that this country desires is to see the neighboring countries stable, orderly, and prosperous. Any country whose people conduct themselves well can count upon our hearty friendship [...] chronic wrongdoing or an impotence which results in a general loosening of the ties of civilized society, may in America, as elsewhere, ultimately require intervention by some civilized nation".³⁵

Civilisation was therefore dependent upon these countries honouring debts. Not only this, but a hierarchy is engrained where civilisation demands intervention to correct any 'chronic wrongdoing' or the dire consequences of 'impotence'.

Rhetorically framed as an 'adherence' to the Monroe Doctrine, with the US self-perceptions a de facto guardian of the Americas from Empire - including a paternalistic imposition of 'good order' - this policing power imparted Roosevelt's 'big stick' diplomacy: decisive action had to be taken at the last moment, as a last resort when 'speaking softly' fails, in order to prevent disorder. This bestowed upon the US a special duty: "in the Western Hemisphere the adherence to the United States to the Monroe Doctrine may force the United States, however reluctantly, in flagrant cases of such wrongdoing or impotence,

³³ Heraclides, Dialla, *Humanitarian Intervention in the Long Nineteenth Century*, pp.208-209

³⁴ James Monroe, 'Seventh Annual Message to Congress' Washington DC, (2 December 1823)

³⁵ Theodore Roosevelt, 'Annual Message to Congress' Washington DC (6 December 1904)

to the exercise of an international police power".³⁶ Initially portrayed as America taking the lead in protecting the continent from further external interference, the acquisition of Cuba as a protectorate shifted the US to the explicit intervening power. The logics of paternalism, protection, and care toward the incapable, weak, and vulnerable indigenous people are underpinned by notions of racial dominance and capability described above, which can be interpreted as a dovetailing of both American and European exceptionalisms, informed by the divine right of continental expansion in Manifest Destiny, as well as European practices of colonial management.

This 'new manifest destiny', which Pratt has referred to as '*au Courant*', stretched the destined expansion beyond the initial Continental bounds. The doctrine of 'manifest destiny' was first articulated in 1845 in the *Democratic Review*, and directed toward any naysayers of the annexation of Texas. The professed entitlement to acquire land for population growth was combined with new scientific 'expertise' of evolutionary hierarchies contained within racial categorisation, that were extrapolated from readings of Darwin's 'survival of the fittest' hypothesis. The historian John Fiske - populariser of Darwin's work - as well as the clergyman Josiah Strong published widely read tracts on the gifts that the politically, economically, spiritually, and morally superior Anglo-Saxon race were destined to give the world in a civilising mission. The progress may lead to bloodshed of the 'inferior', but this could be tolerated in the name of (inevitable) progress.³⁷ The greatness of the US was tied to English colonialism in taming the continent, creating a narrative of continuity which stressed the duty of the Anglo-Saxon race.³⁸ It was a natural extension for the expansion to the West and South to continue overseas. From a political science perspective, it was argued that in order to pull their weight in the perpetuation of Teutonic (Germanic and Anglo-Saxon) supremacy, the US had to respect their duty to civilise, educate, and uplift the unpolitical and barbaric races through colonial instruction. As Burgess claimed, there was "no human right to the status of barbarism", translating into a justification that any attempt to resist could strip them of any rights of humanity.³⁹ Domestically directed race thinking also infiltrated foreign policy-making knowledge, and informed the US relation with the world. There existed a 'hierarchy of race' which structured the societal opportunities available according to racial categorisations: at the bottom sat Native Americans and African Americans; the middle was occupied by Latinx people, the people of colour from Latin America whose ability to self-govern had been broken through years of Spanish colonial rule, and who were racialised as overtly sexual, disorderly, brutish, and corrupt; and finally, those of Anglo-Saxon descent at the top. Violence across this differential is legitimised, and faced with the question of intervention in 1898, such differentials of ability and responsibility downgrade the position of diplomacy - one cannot negotiate with inferiors -

³⁶ Roosevelt, 'Annual Message to Congress' (1904)

³⁷ Pratt, *Au Courant*, pp-28-29

³⁸ Walter L. Williams, 'United States Indian Policy and the Debate over Philippine Annexation: Implications for the Origins of American Imperialism' in *The Journal of American History* Vol. 66 No. 4 (March 1980) pp.817

³⁹ Burgess quoted in Pratt, *Au Courant*, pp.29-30

pushing war to the fore, while also presenting war as a much more attractive method as such superiority should translate to easy conquest.⁴⁰

To give a short relay of the events leading up to war, there were reports, and a corresponding genuine public outcry, of inhumane treatment of Cubans, including forcing the population into concentration camps to root out revolutionaries, which resulted in an estimated 200,000 deaths. Diplomatically, there was also the leaking to the press of an insulting and incendiary letter to the Foreign Minister of Spain from the Spanish ambassador to the US, which described President McKinley as a "low politician" who was weak and catering to the masses. Finally, the sinking of the USS Maine battleship off the coast of Cuba, presumably by the Spanish, took tension to fever-pitch.⁴¹ The road to war was paved with hesitation and a mixture of good and bad intentions, with the doses debated ever since. President McKinley repeatedly referred to the war as humanitarian, and freedom for the native population continued to provide a frame in the aftermath, with Cuba becoming a protectorate (thus denied sovereignty). As an incoming President, McKinley had inherited a terse situation, relations with Spain were tense and the vision of the barbaric Spaniards had captured the public imagination, but outgoing President Cleveland had stuck to a course of neutrality. In his inaugural address, McKinley too placed great emphasis upon the "cherished policy of non-interference", it being the "policy of the United States since the foundation of the Government to cultivate relations of peace and amity with all the nations of the world", and envisioning his own administration as pursuing "a firm and dignified foreign policy, which shall be just, impartial, ever watchful of our national honor, and always insisting upon the enforcement of the lawful rights of American citizens everywhere".⁴² War (not in self-defence) was associated with conquest, and with territorial aggression, with stress very much placed upon the need for restraint and for calculated, dignified diplomacy.

In the run up to the war, where Spain would make no concession over the sovereignty of the Island, a well-respected Senator, Redfield Proctor - former Secretary of War - delivered a heartfelt account of the humanitarian catastrophe unfolding in Cuba upon his return from a trip. In the speech to the Senate House March 1897, he explicitly linked human suffering with the poor governance of the Spanish, appealing for action on behalf of the vision of "the entire native population of Cuba, struggling for freedom and deliverance from the worst misgovernment of which I ever had knowledge".⁴³ Many of the leading figures of the business community had been staunchly opposed to any US interference in the Cuban-Spanish War. Just emerging from a period of financial depression, figures such as Andrew Carnegie and leading financial journalists warned against becoming embroiled in an

⁴⁰ Thomas G. Paterson, 'US Intervention in Cuba, 1898: Interpreting the Spanish-American-Cuban-Filipino War' in *OAH Magazine of History* Vol. 12 No. 3 (Spring 1998) p.8; Michael H. Hunt, *Ideology and U.S. Foreign Policy* (New Haven: Yale University Press, 1987)

⁴¹ Chesterman, *Just war or Just Peace?* p.34 Chesterman discusses the 'yellow journalism' of the day as the reporting of all of these incidents were sensationalised in media reporting.

⁴² William McKinley, 'Inaugural Address' Washington DC (4 March 1897)

⁴³ Proctor quoted in John L. Offner, *An Unwanted War: The Diplomacy of the United States and Spain Over Cuba, 1895-1898* (Chapel Hill: University of North Carolina Press, 1992) p.134

uncertain and costly war. The switch to supporting intervention a few weeks prior to the onset of war has been understood as based upon humanitarian concerns, even explicitly referring to the power of Proctor's testimony.⁴⁴ While the US had commercial and strategic interests either in the pursuit of war or the route of non-interference, the unacceptable suffering of the native people was tied to poor governance, which could be changed. However, with the bombing of the USS Maine the ongoing struggle could explicitly be referred to as a security threat to the US.

In McKinley's address to Congress in April of 1898 in which he petitioned for the authority to wage war, the President referenced a half-century history of Cuban insurrection against Spanish rule as inflicting a huge cost upon the US protector in enforcing neutrality, resulting in loss of trade as well as causing shock in the face of brutal suppression. Threats to US national security and commercial interests were elaborated alongside appeals to a humanitarian responsibility in drumming up support for intervention. Four reasons are explicitly laid out by McKinley as sufficient grounds for intervention: "In the cause of humanity and to put an end to barbarities, bloodshed, starvation, and horrible miseries now existing there, and which the parties to the conflict are either unable or unwilling to stop or mitigate"; to protect US citizens residing in Cuba, including their property; to secure US commercial interests in the face of "very serious injury to the commerce, trade, and business of our people"; and finally as an act of self-defence, the present situation in Cuba being "a constant menace to our peace" which compels "us to keep on a semi war footing with a nation with which we are at peace".⁴⁵ The case of saving humanity was thus presented as a matter of state responsibility, but when a space is unable - as in Cuba - or unwilling - as Spain - to protect human life and dignity, the cause of ending barbarism was placed upon the shoulders of others. This duty to protect vulnerable people in another state was explicitly recognised and foregrounded. Further, the reference to self-defence rests upon a vision of, at least Hemispheric, transnational insecurities which emerge from sustained belligerence and inhumanity.

Exclusions: Race and Gender

The humanity of the Cuban people was recognised if only for a brief moment, in contradistinction to the Spaniards. There existed a precedent of portraying the Spanish in History textbooks and in the media as barbaric and backward Monarchists, with a history of repression - tied to their Catholicism - going back to the inquisition, whereas the Cubans were likened to the revolutionary US, fighting for freedom, the New World throwing off the yoke of the Old.⁴⁶ This romanticised image of progressive freedom fighters was not to last,

⁴⁴ See Julius W. Pratt, 'American Business and The Spanish American War' in *The Hispanic American Historical Review* Vol. 14 No. 2 (May 1934) pp.163-201; Sewell, 'The American War with Spain'

⁴⁵ William McKinley, 'Message to Congress Requesting a Declaration of War with Spain', Washington DC (11 April 1898)

⁴⁶ John L. Offner, 'McKinley and the Spanish-American War' in *Presidential Studies Quarterly* Vol. 34 No. 1 (March 2004) p.52

as during the war and subsequent defeat, the Spanish became equated with dignified conduct in combat and their humane treatment of US prisoners. The rebel forces became associated with rag-tag bands of disorganised opportunists, who flouted battle, engaged in arbitrary punishment of prisoners, and lacked discipline.⁴⁷

The humanity of the Cubans was recognised in order to justify intervention, but in practice, the Cubans were not recognised as human enough to take control of their own independence movement or of their own governance. This seeming mutual respect shown between Spanish and US troops is imbued with racialised notions of self-control, honour, and ultimately nationhood. The irregularity of the rebels depicts an inferiority that hinges upon notions of racial hierarchies. Although fighting for Cuban independence, the US army did not leave until 1902 when Cuba was granted formal independence (in this withdrawal, Guantanamo Bay became a base for the US in perpetuity). While the Teller Amendment to the declaration of war renounced any US intention to exercise sovereignty over Cuba, the Platt Amendment included conditions to the withdrawal of US troops that included not only permanent bases to protect Cuba and the US, but that "the government of Cuba consents that the United States may exercise the right to intervene for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property, and individual liberty".⁴⁸ Constructed around the prize of Cuban independence, this was independence explicitly on US terms, reserving the right to intervene to 'maintain' proper governance. Both the Cubans and then the Filipinos were excluded from the spoils of the fighting in their own nation against the colonial power. The Cubans, who had been engaged in insurrection for years, could not participate in the surrender of Spain, and in the Philippines, the Spanish would only surrender to the US, finding it less dishonourable than losing to their own subjects.⁴⁹ These exclusions recognise only (white) sovereign state powers as actors, as either the colonist or the saviour, with the indigenous populations being unruly, and subject to pacification

Gendered readings of the war are also of note; in considering the paternalistic racial overtone one cannot exclude the dynamics of gender. Paterson notes the 'male ethos' that formed a tenet of US ideology at that time and the implications for hierarchical assumptions of power, which rhetorically placed the masculine, Uncle Sam against effeminate and frail nations, Cuba presented as a sort of damsel in distress, as childlike, feminine, irrational, and unstable.⁵⁰ The honour in battle that appears to emerge in the aftermath of the war, inverting the vilified and victim, is also gendered, as Hoganson presents the notion of chivalry in the rhetorical legitimisation of war: the heroic and seemingly self-less act of saving a weak being from the barbaric actions of a menace combined with the taunting act of the

⁴⁷ Sewell, 'The American War with Spain' p.312

⁴⁸ United States, Transcript of the Platt Amendment (1903) available at <<https://www.ourdocuments.gov/doc.php?flash=false&doc=55&page=transcript>>

⁴⁹ Sewell, 'The American War with Spain' p.314; Heraclides, Dialla, *Humanitarian Intervention in the Long Nineteenth Century*, p.211

⁵⁰ Paterson, 'US Intervention in Cuba' p.8; Gail Bederman, *Manliness & Civilization: A Cultural History of Gender and Race in the United States, 1880-1917* (Chicago: University of Chicago Press, 1995)

Maine bombing, what kind of man could not defend himself?⁵¹

An Anti-Imperialist Imperialism

In the waging of war against a colonial behemoth, the US had attacked other Spanish colonies in the Philippines and Puerto Rico in order to disrupt their enemy and to place the US in a better position to negotiate terms in the aftermath. The engagement in the Philippines, strategically intended to pressure Spain, presented the question of possibly acquiring control. This unexpected turn in the course of the war opened a chasm between expansionists and anti-imperialists, who both referred to a language of humanity and liberty. The acquisition of protectorates and colonial lands has been a development fraught with tension for those trying to reconcile past anti-imperialism, with the turn to an imperial power from a former colony. Over the course of a few months, the ambitions for how much of the Philippines must be placed under US control extended, eventually encompassing the entirety, under the idea that dividing the archipelago would be disastrous. The thrust for annexation was driven by the apparent lack of capacity for self-rule and self-reliance from the Filipino people. The remarks of General Greene upon his return from a tour of the Philippines stressed not only the necessity, but the indigenous will for US governance. The native elite seemingly wanted a process similar to that of Cuba, with a staggered road to self-rule, and without the US, Greene warned that anarchy would reign, and ultimately another power such as Germany or Japan would seize control.⁵² The racialised hierarchies of capability sustaining International Relations is apparent in this assessment; without outside rule, these peoples would be reduced to anarchy unless placed under tutelage.

An 'Anti-Imperialist League' - Mark Twain a famous member - placed the proposed annexation as completely at odds with the US self-perception and the foundational values of the nation: Senator Carl Schurz argued that if a colonial policy was pursued the "inevitable decency [of the US] will hurt the progress of civilization more than it can possibly further that progress by planting its flag upon a foreign soil on which its fundamental principles of government cannot live".⁵³ Referring to their revolutionary emancipation from a colonial, monarchical, European power, they pointed toward the doctrinal basis of the country founded in freedom as provided a moral compass: the Declaration of Independence, Washington's farewell address, and Lincoln's Gettysburg Address. Evoking the suspicion of government, the League highlighted these documents as championing government only with consent of the majority, as stressing self-rule and self-reliance, power being by and for the people.⁵⁴ To contravene these principles with blatant imperialistic endeavours would be betraying the ideals upon which the US constituted itself. McKinley embarked upon a

⁵¹ Kristin Hoganson, *Fighting for American Manhood: How Gender Politics Provoked the Spanish-American and the Philippine-American Wars* (New Haven: Yale University Press, 1998)

⁵² Sewell, 'The American War with Spain' pp.314-315

⁵³ Schurz Quoted in Fred H. Harrington, 'The Anti-Imperialist Movement in the United States, 1898-1900' in *The Mississippi Valley Historical Review* Vol. 22 No. 2 (1935) p.212

⁵⁴ Harrington, 'The Anti-Imperialist Movement' pp. 211-230

speaking tour across the Midwest, to buoy public opinion on the notion of annexation. The intervention has been a unifying moment following the divisions of the Civil War, and the Philippines threatened this newfound cohesion. Throughout this tour, McKinley stressed the themes of a unified country and of the unstoppable progress that was happening domestically and being brought to the 'poor wretches' abroad, in patriotic and jingoistic overtures. The selfless yet inevitable duties of the nation on the international stage is a consistent note across these speeches, as McKinley tied the US flag to the protection of humanity and the furthering of liberty: "Wherever our flag flouts, wherever we raise that standard of liberty, is it always for the sake of humanity and the advancement of civilisation", and referring to an seemingly unintended acquisition of land, "territory sometimes come to us when we go to war for a holy cause, and whenever it does the banner of liberty will float over it and bring, I trust, blessings and benefits to all the people".⁵⁵ This tying of the sacred and the secular stressed both the Divine duty that had been laid at the feet of the US, as well as the responsibility to uphold peace and security internationally, a combination that has been a mainstay of US foreign policy. The US had been given this Divine challenge to end tyranny through tutelage. In this telling, leaving the Filipinos to independent freedom would result in anarchy, disorder, and ultimately a (more brutal) power taking control.⁵⁶

The American Way of Empire

The American way of empire presented an amalgam of continental expansion with imperial annexation. The favouring of the British imperialist practice was informed by a distinction between positive and negative imperialism, where the British were understood as positively creating order, fostering development and progress, lifting the native populations up. Leading members of the McKinley administration were focused upon the need for information and knowledge on other colonial administrative powers, emphasising the significance of the British model, in which a large part of self-government remains within the people.⁵⁷ The US expansion and genocide of the native people of their own land, as well as the continued practices of control and management, also contributed to overseas administration. The dichotomous worldview of civilised and barbarous entailed the grouping together of Native Americans and Filipinos, and encouraged equations in official approaches

⁵⁵ Susan A. Brewer, *Why America Fights: Patriotism and War Propaganda from the Philippines to Iraq* (Oxford: Oxford University Press, 2009) pp.26-27

⁵⁶ In an interview in 1903, defending his support of the annexation, McKinley referred to four factors: Firstly, that they could not restore Spanish rule; the other candidates were commercial rivals Germany and France; that they were "unfit for self-government and they would soon have anarchy and misrule"; finally, that the last resort was to "take them all, and to educate the Filipinos, and uplift and civilise and Christianise them, and by God's grace do the very best we could by them, as our fellow-men for whom Christ also died" in, General James Rusling, 'Interview with President William McKinley' in *The Christian Advocate* (22 January 1903) Reprinted in *The Philippines Reader: A History of Colonialism, Dictatorship, and Resistance* (ed.) Schirmer, Rosskamm Shalom (Boston: South End Press, 1987) p.17

⁵⁷ Frank Schumacher, 'The American way of Empire' in *GHI Bulletin* No. 31 (Fall 2002) pp.35-50

to each group, as McKinley instructed the Philippine Commission to recognise 'uncivilised' tribal structures as had been practiced domestically, but to retain a close regulation and to install civilised behaviour. Walter Williams has interrogated the influence of the constitutional and legal frameworks to control the Native American population upon the US colonial practice. From a system of sovereign state recognition for indigenous political organisations, in 1823 Indians became a separate legal category, wards of the state, who could inhabit the space of the US but did not enjoy any rights of citizenship. Citizenship thus became equated with (presumably white) Americans of Anglo-Saxon descent.

Nationalism is constituted through the binary dualism of citizenship/alien, through this distinction in rights, the Other, the wards, are a problem to be solved. (National) Identity is (re)produced through the identification of threats: 'real' citizens, read as white, are equated with belonging and security, whereas the alien Other is a difference and a threat. The race differential translates into a rights differential. Occupying this liminal space, indigenous communities became constructed as dependent: this incapability attributed to a racial inferiority rather than the myriad boundaries excluding native people from success in this new sovereign state, imposed from without. Thus, the constitutional and legal framework to govern dependent subjects, without the recognition of citizenship, pre-existed the annexation of colonial land.⁵⁸ Sewell argues that the notion of failure in Cuba created an interventionist consensus: "failed states (or colonies) made bad neighbours".⁵⁹ Once the colonial power was expelled, this propensity for failure was placed upon the Cuban people, and extended to the Philippines. Independence could not be recognised until a capability was seemingly proven to the US of performing the duties of sovereignty. Having dipped into the histories of humanitarian intervention, and the matrices of colonial governance therein, we turn to the processes of decolonisation and how the question of 'underdevelopment' was placed within Cold War geopolitics.

⁵⁸ Williams, 'United States Indian Policy and the Debate over Philippine Annexation', pp. 810-831

⁵⁹ Sewell, 'The American War with Spain' p.321

3.3. Development and Democracy: Three Worlds and the Outlaws

The historical and political context of the post Second World War granted an urgency to the notion of 'development', in the domestic contexts of colonial countries entering struggles of liberation, and an international terrain of waxing political ideologies vying for influence. Development as an ideology of progress, rooted in imperial relations, has a long history, and there exist many continuities and reflections; however, from 1945 there was an expansion in developmental logic to a global scale, witnessed in political rhetoric, the institutionalisation across domestic and international spheres, and in the establishment of an expansive field of study which was particularly pronounced in the American academy.¹ The dramatically changed international landscape, with the US at the helm, is often viewed through the push for decolonisation enshrined in the Atlantic Charter - FDR's conviction that the victors of the war against fascism should not be imperial powers upset Churchill, famously a dogged supporter of the British Empire - and for bearing the weight of the financial recuperation of Western Europe and Japan through the Marshall plan. The explosion of sovereign statehood through the myriad struggles for national liberation in the wake of decolonisation meant that the recognition of each new entity was underpinned by a dichotomous international, between the two superpowers in competition for influence. These competing ideologies of what it means to be modern, and developed, structured the knowledge and debate of how new states could be recognised as legitimately sovereign, autonomous, cooperative, and - ultimately - as members of modernity.

The contemporaneous establishment of a global economic standard in market capital links development not only with progress, but with peace and freedom. The divide between the developed and underdeveloped as a seeming neutral and non-discriminatory distinction, a division that can be transcended through developmental aid and good governance, elides the struggle of alternative articulations of economic (and political) success under the dominant framework of a (neo)liberal global order. In the story of development that dominates IR today, underdevelopment breeds conflict and scarcity, the 'lack' is placed on the door of the overwhelmingly postcolonial spaces of state failure and fragility; the racialised hierarchies that sustain the processes of dispossession between the Global South and North are effaced in the formation of a scientifically objective and quantifiable scale of capability and adaptability within a global threatscape. The failings of the South are conceptualised as creating global insecurity and instability, in 'bad' circulations that flow to the Global North through migration, disease, war, and terrorism. Speaking to the gradual limiting of the radical possibilities present within human rights claims, and specifically to the rights of self-determination, this chapter argues that development subsumed the social and economic aspects of nation-building, which associated these positive, and collective tendencies with the promotion of good governance (and an associated global system of capital), rather than through a system of rights. In the

¹ Henry Bernstein, 'Modernisation Theory and the Sociological Study of Development' in *The Journal of Developmental Studies* Vol. 7 No. 2 (1971) p.142

immediate post-war era, there was a recognition of the mutually constitutive relationship between poverty and accumulation; with the ascendance of neoliberal doctrine where economics are fundamentally apolitical, poverty has been naturalised as a failure to adapt to finance capital, no longer scrutinised as an outcome of that self-same system.²

In the separation of socio-economic *needs* from the discourse of human rights, the economic capabilities of the state have become tied to the provision of individual civil and political rights: in liberal developmental discourse, the economic prosperity understood to be capable in market democracy is tied to the provision of human rights. As the dominant developmental economic knowledge has shifted from a Keynesian notion to a neoliberal framework, freedom is articulated as choice, where the poor and downtrodden have made poor choices: the myriad constraints that are imposed on any 'choice' is not recognised, and cannot be fought for through a 'rights' struggle, as the economic is rendered as a neutral and apolitical force. While individual civil and political rights are human, economic concerns are placed at the level of state, where it is asserted that ease of access to markets, with few restrictions on the flow of international trade, can raise all states (as long as they have the correct regime), thus raising standards of living. This chapter will analyse the recognition of development as a Cold War front, led by an economic theory of 'modernisation', before moving on to an analysis of the development-security nexus and the ascendance of a neoliberal economic imaginary which consolidated democracy as entwined with individual rights fostered through free choice, free trade, privatisation, and deregulation.

The dynamics of development and liberalism that this chapter interrogates, revolve around the rise to prominence of democracy promotion, as well as the depoliticising of economics generally and capitalism particularly, that was consolidated in the movement to neoliberalism. Development is entangled with sovereign capability and legitimacy, but is not a static and essentialised practice. Employing a biopolitical lens, it is important to note the stripped back and degraded characterisation of life that is to be promoted, and how this translates into the corresponding practices that are focused upon spreading freedom. Further, Foucauldian biopolitical thinking is revelatory of the shifting problematisation of the individual in poverty (as well as the structural (re)production of poverty) and the corresponding fixes. The notion of self-governance and self-reliance to be fostered through the aid of the developed nations, in the contemporary understanding of development, is premised upon an equal availability to exercise will; the introduction of choice, therefore makes possible the designation that some have made the 'right' choices, while others taken the 'wrong' route.

Making the World Anew

The remaking of a stable (capitalist) world order was charted at Bretton Woods in 1944: the agreement reached at this conference institutionalised a notion of pacific, humane, and

² Manokha, *Political Economy of Human Rights Enforcement*, p.108

rational capital relations at the global level. The centrality of the US was consolidated as the gold standard was replaced by the US dollar; the US government were then tasked with the responsibility to keep an eye on the maintenance of currency convertibility (this system eventually collapsed in 1971 under Nixon). Delegates from forty-four countries met at the UN Monetary and Financial conference to establish a new international monetary system, which was premised upon a belief that an ever-expanding realm of economic prosperity would not only benefit humanity in their quality of life, but that this comfort and ease would stave off war and violence. The system established at this meeting was intended to ensure the liberalisation of trade through multilateral agreements, without discrimination, in order to address the lack of cooperation that had proved troublesome in the past. In the short term, the goal was to rehabilitate Europe which had been ravaged by war, and long term to promote economic growth. Two international institutions were also created at this conference, the International Monetary Fund (IMF) and the International bank for Reconstruction and Development (now known as the World Bank). Stressing cooperation and the productive flow of capital, the IMF was tasked with regulating national currencies and monitoring the international monetary system, while the World Bank tackled specific national circumstances - now focused upon the 'developing world' - to offer loans and assistance. The goals of the Bretton Woods institutions were the stabilisation of national economies and stimulation of international trade, the promotion of growth in the developing world by importing infrastructural technologies, and to expand the export of resources from the third world in order to facilitate their purchasing power.³

The legacy of this agreement was captured in a 2002 report by the IMF addressing the topic of globalisation and their role therein. Stressing the vulnerabilities of globalisation, if taken for granted and not defended, it is argued that "globalization represents a political choice in favor of international economic integration, which for the most part has gone hand-in-hand with the consolidation of democracy. Precisely because it is a choice, it may be challenged, and even reversed - but only at great cost to humanity. The IMF believes that globalization has great potential to contribute to the growth that is essential to achieve a sustained reduction of global poverty".⁴ The logic of this integrated world system also promotes an ideal of national 'self-help' that is nonetheless initiated through an international helping hand. The developing world is tasked with the establishment of peace, justice, good governance, and implementing "economic policies that encourage private initiative and integration into the global economy", whereas the developed world must invest, offer assistance, relieve debt, and open their markets.⁵ Mainstream developmental discourse has completely depoliticised the economic, and negates the role of global finance capital in the 'arrested development'. Later in the report, the pacific nature of increasingly free markets (and associated spread of liberal democracy) is tied to poverty not only as

³ Phillip McMichael, *Development and Social Change: A Global Perspective* (6th ed.) (Los Angeles: Sage, 2017)

⁴ International Monetary Fund Staff, *Globalization: A Framework for IMF Involvement*, Introduction (March 2002) <<https://www.imf.org/external/np/exr/ib/2002/031502.htm#v>>

⁵ IMF, *Globalization*, Part IV. Providing Help for Self-Help

morally reprehensible, but as a security challenge, wherein resentment could breed war and terrorism. This chapter will trace the development discourse, from a bolster against communist expansion (or other movements such as Arab Nationalism), toward the academic discourse of the development-security nexus that emerged in the 1960s and 70s, and which continues to underpin the characterisation of the failed state as security threat. Associating poverty with a lack, and even with immorality, promotes a Northern (white) saviour complex, and implicitly refers to those in poverty as somehow immoral in their inability to save themselves. The systems sustaining poverty and dispossession are not morally reprehensible, rather, these are proposed as the solution and are to be lauded. Further, to link this with security, turns to the question of responsibility and intervention. If they can't govern themselves, the resentment could turn violent, and possibly spill outside of their own (presumably mismanaged) borders, to reach the Global North. Issues of underdevelopment and the implications for US security were addressed by Truman in his articulation of the post-War world, which was framed in the vein of lending a helping hand, and of equalising the opportunity to participate in a global economic framework.

The notion that livelihoods must be improved in order to stem discontent in the fast-changing world order was posited in a series of 'Pentagon Talks' held in 1947 between the US and UK. These discussions were directed toward the question of the Middle East in the wake of the war: as a theatre of war between the colonial powers, instability and unrest had been stoked. The improvement of living standards through development and industrialisation were specifically pinpointed as a strategy to increase regional stability and security. Making reference to the agricultural construction of the majority of society, the estimated growth of population (that would strain resources), and a widening inequality gap, industrialisation was recommended to provide jobs, urban space, and the redistribution of wealth - the trimmings of modernity. The document does stress that this process cannot be a one-size-fits-all, and must recognise the specificities and particularities of the region, that development must be adapted to their way of life. However, the text then immediately turns to the subject of oil and the potential that could be gained from "a considerable influx of private capital into the undeveloped region", but that must be met with "new or modernized financial institutions" to deal with the changed circumstance.⁶

In his 1949 inaugural address, Truman shared his agenda for promoting domestic welfare as well as international peace, specifically referring to the 'undeveloped' world. Improving the material status and political opportunities of those peoples in underdeveloped areas was placed upon the international security agenda. Truman called for a collaborative project across the free world to promote the sharing of technical progress and scientific expertise, as well as to ensure collaboration in the containment of

⁶ 'Pentagon Talks of 1947' available in Office of the Historian, 'C. Political and Economic Questions, 1. Improvement of Living Standards in the Middle East through Development of Resources and Industrialization: Iraq Irrigation Scheme, The Tana Dam Project, Egypt, Palestine, Syria and the Lebanon, Arabia, other Arabian States, Ethiopia, Turkey, Iran, and Afghanistan' in *Foreign Relations of the United States, 1947, The Near East and Africa* <<https://history.state.gov/historicaldocuments/frus1947v05/ch2>> pp.545-546

communism. The president spoke in altruistic tones, pinpointing this as the first time humanity was able to help those less fortunate - but of course with the caveat that this helping hand would be restricted to peace and freedom loving peoples. The insecurity of poverty was tied to a greater threat, that could spread beyond their own population. The fate of the undeveloped is fleshed out as lacking in every sense, a life of misery, hunger, illness, and poverty: "More than half the people of the world are living in conditions approaching misery. Their food is inadequate. They are victims of disease. Their economic life is primitive and stagnant. Their poverty is a handicap and a threat both to them and to more prosperous areas".⁷ The inauguration of new sovereign spaces places this huge swathe of humanity within a wider security-scape; the discursive formation of the 'Third World' in US foreign relations has always been about the security of those outside. The gateway to human flourishing and freedom, prosperity and peace, security and stability, is conceived as opened through the increase of production and the spread of democracy. Stressing this programme of modernisation as enabling the underdeveloped to help themselves, economically Truman calls for a "program of development based on the concepts of democratic fair-dealing", and in political terms: "democracy alone can supply the vitalising force to store the peoples of the world into triumphant action, not only against their human oppressors, but also against their ancient enemies - hunger, misery, and despair".⁸ In this plan of action, what is it that is keeping the underdeveloped in this state? The US, and their allies, are presumed to hold the economic, political, and scientific expertise that can be taught, as a civilisational helping hand. With these expertise, the Other will be able to pull themselves into modernity. This development was not only to be the saviour of those poverty-stricken, but also to ensure the ideologues of communism could not exploit the desperation, thus constructing a bulwark. These non-aligned were possible allies or communist enemies. The explosion of 'new states' were understood in terms of a friend/foe/other.

The temporalities invoked in this speech are reminiscent of Fanon's 'colonial time'; by referring to "ancient enemies", a number of temporal spaces are being instituted. The evocation of ancient, serves as a point of contention to the modernity that is being offered, one of science, increased wealth, democratic governance, and generally a better livelihood. Left to their own devices, presumably the underdeveloped will continue to be plagued by these afflictions which are "approaching misery". Any rejection of 'modernity' is then a signal of regression, barbarism, poverty, and unfreedom.⁹ Further, this presents a

⁷ Harry Truman, 'Inaugural Address', Washington DC, (20 January 1949)

⁸ Truman, 'Inaugural Address'

⁹ Frantz Fanon, *Toward the African Revolution* (trans.) Chevalier (New York, Grove Press: 1967) pp.58-59. "Conquest, it is affirmed, creates historic links. The new time inaugurated by the conquest, which is a colonialist time because occupied by colonialist values, because deriving its *raison d' etre* from the negation of the national time, will be endowed with an absolute coefficient. The history of the conquest, the historic development of the colonization and of the national spoliation, will be substituted for the real time of the exploited men. And what is affirmed by the colonized at the time of the struggle for national liberation as the will to break with exploitation and contempt will be rejected by the colonialist power as a symbol of barbarism and of regression."

monopolised understanding of 'modernity', the modern being only that of the 'free world', of science, abundance, and democracy, one which has been reached independently and must now be gifted to those 'poor wretches'. This also disrupts the immediate context of the processes of decolonisation. There is a sense of being stuck in an ancient struggle, struggles which the 'modern' world have been able to control already. Pinpointing their victimhood, and the inadequacy of their living conditions, the supposed state of stagnation places the Third World in a crystallised moment of the past, an ancient past that does not recognise the intertwined histories of colonisation. Within the framework of systematic decolonisation, the initial project for freedom was imagined as the right to self-determination. That the goal of development and sharing was to enable those colonial peoples, entering the post-, were to acquire the knowledge and skills to rule themselves.

The institutional ideological framework of the US entering the Cold War, was outlined in the National Security Council Paper NSC-68 'United States Objectives and Programs for National Security', which pitted the US against the 'hostile design' of the Soviet Union. Completed in April 1950, this memorandum is one of the most influential documents in structuring the US government approach to the Cold War: in the "underlying conflict in the realm of ideas and values", freedom is fore-fronted, as well as an international society structured along the principles of 'consent', in opposition to the USSR. The US was afforded a leading role in the assurance of order and stability: "this fact imposes on us, in our own interests, the responsibility of world leadership. It demands that we make the attempt, and accept the risks inherent in it, to bring about order and justice by means consistent with the principles of freedom and democracy".¹⁰ Those 'unfree', but not (yet) communist, were therefore placed within the remit of US national security and international duty - development is proposed not only as an economic project, but of the projection of the conditions in which the individual can be *free*.

Aside from this pivotal role in the formation of the multilateral institutions which continue to dominate the international financial landscape, the US also established some of its own complementary organisations, namely the American Export-Import Bank, the Foreign Credit and Insurance Corporation, the US Agency for International Development (USAID), and the International Trade Administration. The rampant institutionalisation of transnational monetary ties were conceived to encourage investment, specifically secure American investment abroad as well as greater integration of business interests. However, it is important to note that in the conception of these agreements, there was a recognition that not everyone could emerge as a winner, and that individual nations were free to pursue their own social welfare and stabilisation programmes internally, while promoting a shared agenda of liberalised international trade.¹¹ This prior recognition of both winners and losers in the establishment of free trade, has been noted by numerous scholars: the belief in a

¹⁰ US National Security Council, 'NSC 68: United States Objectives and Programs for National Security' (Washington DC: White House, 1950) History and Public Policy Program Digital Archive, US National Archives, p.9

¹¹ Manokha, *Human Rights Enforcement*, pp.106-108

state-based development of economic and civil infrastructure that existed until the 1980s dogma of privatisation and the ascendance of neoliberalism, has been intrinsically related to the possibility to articulate alternative visions of the international - these alternatives including social internationalism, Third Worldism, dependency theory, and theories which analyse the politics of race through the application of Du Bois' global colour line.¹²

The Rule of Three: Third Worldism

The systems of knowledge produced on the international emerging after the second world war split the globe into three worlds. The theory of the three worlds, originated in France, with the term 'Third World' coined by the French demographer Albert Sauvy in 1952, to describe the non-aligned nations. The three worlds were conceptualised in relation to the three estates in pre-revolutionary France: nobles, clerics, and the Third Estate; the contemporary evocation of 'Third World' signifies poor and underdeveloped nations, referencing only socio-economic factors, with the political genealogy of the Cold War geopolitical context erased. The three ascriptions assigned by Sauvy to the Third World are outlined by Solarz: firstly, the socioeconomic status of underdevelopment; secondly, the political position as a site of super-power rivalry, either as an obstacle or a victim; there has been a third interpretation proffered in which the third world could become an independent and equal 'third force'.¹³ Certainly the post-Cold War notion has placed a hierarchy in the worlds: the first of freedom; the second of tyranny; and the third of potentiality, a possible alliance which must be developed (then hopefully transitioned into the first). This schematic survives to today, and has profound implications for how interventions in the 'third world' are viewed and legitimised.

Third Worldism presented another oppositional movement to the dominant Western interests in the global economic order, alongside international socialism. A diverse movement encompassing myriad peoples and varied opinions, this was informed by the shared experiences of colonial rule, while also joined by a strong intellectual engagement from within the former metropoles. There is no space nor necessity to embark upon a history of the complex, multiple, and sometimes conflicting Third Worldism's here. It is a movement that is debated to be dead, in its death throes, or in need of remaking, yet some overarching points will be made through reference to the scholarly work already produced.¹⁴ Marxism was, and remains, a powerful theoretical tradition within post-colonial thought, from a variety of perspectives: Lenin and Luxemburg famously produced tracts on

¹² See: Robert Shilliam, 'What the Haitian Revolution Might Tell us about Development, Security, and the Politics of Race' in *Comparative Studies of Society and History*, Vol. 50 No. 3 (July 2008) p.783; Mark Duffield, *Global Governance and the New Wars: The Merging of Development and Security* (London: Zed Books, 2014) pp.22-28

¹³ Marcin Solarz, "'Third World": The 60th Anniversary of a Concept that Changed the World' in *Third World Quarterly*, Vol. 33 No. 9 (2012) p.1563

¹⁴ See Mark Berger, 'After the Third World? History, Destiny and the Fate of Third Worldism' in *Third World Quarterly* Vol. 25 No. 1 (2004) pp.9-39: and Andrew Nash 'Third Worldism' in *African Sociological Review*, Vol. 7 No. 1 (2003) pp.94-116

revolutionary internationalism, rejecting imperialism as the enemy of both the colonised and the urban proletariat; Fanon's *Wretched of the Earth* is something of an unofficial manifesto, which adds the postcolonial perspective and introduces a new figure of the 'oppressed' - that of the Outcast - and Fanon's work has been heralded as a re-imagining of freedom that decolonises Marxism and disrupts the dominant Eurocentrism; finally, referring to this Eurocentrism, the contemporaneous Western thinkers that contributed to Third Worldism included Sartre in France, Perry Anderson across the pages of the New Left Review in the UK, and the US *Monthly Review*, where the socialist Left intersected with the emancipatory and revolutionary movements across African American communities and the wider pan-African consciousness.¹⁵

Without the hierarchical and theoretical pillars which structured the other two 'world'-views, the non-alignment movement and Third Worldism is widely understood to have its foundation in the April 1955 Conference of African and Asian governments held in Bandung, Indonesia. Bandung has earned the status of founding a political entity and coalescing the movements, the 'spirit of Bandung' is shorthand for solidarity, shared resolve, and world (re)making. The opening address by the host, Indonesian President Sukarno struck a chord between the melancholy, minor key of shared histories of colonialism with a choral lift of the spiritual, moral, political, and technical power of Asian-African collaboration. Declaring this "the first intercontinental conference of coloured peoples in the history of mankind" - while mentioning predecessors in the course of his own speech - Sukarno recognises a changed International and one where the gathered participants would be able to make anew.¹⁶ While Bandung is certainly pivotal event in postcolonial literature, the conference has scant reference in human rights historiography or in so-called mainstream IR.

In treatments on the history of the conference, human rights is barely mentioned, while Bandung is often barely a footnote in human rights history. Against the tendency to separate engagement with human rights and with anticolonial struggles for self-determination, Roland Burke has explored the entanglements of these questions and ultimately human dignity and formulations of freedom as a driving force of debate at Bandung, particularly in the comprehension of human rights and decolonisation. In coming to grips with the complex, multifaceted, shifting, yet ongoing practices of colonialism, defining the beast was a task that demanded a reckoning with the alternative systems that would replace them in the new nations, "questions about the nature of freedom, and the relationship between national self-determination and individual liberty".¹⁷ With a focus upon the figure of Carlos Romulo - the Filipino Minister of Foreign Affairs, public intellectual, and exponent of Third Worldism - Burke notes the presence of human rights in the articulation of a 'freedom' not only anti-Western/capitalist but also staunchly anti-Soviet; truly a third world against colonialism of all

¹⁵ Nash, 'Third Worldism'

¹⁶ President Sukarno, Opening Address, Bandung Conference (18 April 1955) <

https://www.cvce.eu/en/obj/opening_address_given_by_sukarno_bandung_18_april_1955-en-88d3f71c-c9f9-415a-b397-b27b8581a4f5.html>

¹⁷ Roland Burke, "'The Compelling Dialogue of Freedom': Human Rights at the Bandung Conference' in *Human Rights Quarterly* Vol. 28 No. 4 (2006) p.958

forms. Romulo had been one of the only Third World voices at the UDHR drafting, had fought for the inclusion of the self-determination and in the Philippines sought an independence that would also harbour freedom for the greatest number of people. The claim of Bandung as adopting a cultural relativism in the discussion of human rights, if not blatantly anti-HR as western imperialism, is simply untrue. Another prominent figure of the non-alignment movement, and first prime minister of India Jawaharlal Nehru, recognised that "we have no right to criticise others for violating human rights if we ourselves do not observe them", and Bandung can be situated as a space of alternative world-order making, normative grounding, with a universalism that recognised the particulars of self-rule.¹⁸

The Final Communiqué issued by the Conference articulated a sphere for the 'Third World' on the international stage, by envisioning a space of economic and cultural cooperation which recognised the evils and dependencies created by colonialism, as well as stressing support for human rights and self-determination. In line with the UN Charter, the recognition of self-determination was framed as a prerequisite for the realisation and enjoyment of human rights. This initial attempt to form a shared political consensus and consciousness, forming a basis for an array of initiatives in the name of the 'Third World' as the non-aligned, attempted to move the focus of the Cold War from East-West relations, to that of North-South.¹⁹ The ongoing temporalities and diverse processes of colonial rule were acknowledged, as the communiqué declared "colonialism in all its manifestations is an evil which should speedily be brought to an end".²⁰ Such a declaration could encompass the myriad forms of imperialism: not only former formal colonialism, but the contemporaneous context of the Algerian war, the Soviet Union occupation of Eastern Europe, as well as the informal and unrecognised US form of empire.

One example of effective, and collaborative, opposition to the economic world order, took place at the UN conference on Trade and Development held in 1964, convened due to pressure from the Third World, and led by Latin American countries. The General Agreement on Tariffs and Trades was established in 1947, but it was decried by former colonial countries as unfairly advantaging developed nations, as the foundational principle whereby states negotiated reciprocal trade concessions assumed a level playing field. In fact, the level of trade carried out by countries of the Third World fell from one third to almost one fifth across the 1950s under this agreement. At the conference, a caucus of developing nations was formed in the Group of 77, who demanded reform. While the conference itself did not result in immediate reform, the lasting effect was the institutionalisation of Third World voices in international agencies. This can be evidenced in the World Bank under the presidency of McNamara, who employed Keynesian economic theory, which conceives a link between economic growth and social equality, thus

¹⁸ Amitav Acharya, 'Studying the Bandung Conference from a Global IR Perspective' in *Australian Journal of International Affairs* Vol. 70 No. 4 (2016) pp.342-357

¹⁹ Geir Lundestad, *East, West, North, South: Major Developments in International Politics Since 1945*, 6.ed (London: Sage, 2010)

²⁰ 'Final Communiqué of the Asian-African Conference' in *Asia-Africa Speak from Bandung* (Jakarta: Ministry of Foreign Affairs, 1955) pp.161-169

connecting the redistribution of wealth to growth.²¹

One of the most influential outputs from Third Worldism has been dependency theory, as a leftist response to 'modernisation' and development economics which dominated the 1950s and 1960s development discourse.²² As the name suggests, this perspective diagnosed a postcolonial position of dependency that was perpetuated by developmental processes, whereby the valuable raw materials and labour power in abundance in the South were being exploited by the North: the relations of poverty were then sustained by design. This historical enrichment of the metropole was being reproduced through the continued dispossession of the global borderlands. Responding directly to modernisation, dependency theorists question the distinction of the modern and traditional societies. There are myriad reasons why Third Worldism and dependency theory has declined in relevance and power after a peak in the 1970s, not to mention conceptual pitfalls, the perpetuation of theoretical gulfs between the epistemic production of postcolonial and Western countries, and the fracturing into diverse nationalist revolutionary movements. However, Duffield highlights the shift in conceptions of capitalism alongside the foreclosing of alternatives and the sidelining of a collective Third World identity: dependency was "describing a capitalist world system that was still conceived in terms of expansion and inclusion", able to agitate for reforms in the relations of international economics in a shared understanding that the systems of international finance were unequal and exploitative.²³ It is integral to first interrogate the assumptions of modernisation theory which dominated US development thinking in the 1950s and 1960s, before turning to the securitising of underdevelopment.

Modernisation Theory: From Third to First

Modernisation theory as practiced in US foreign policy, is associated most ardently with the Kennedy administration, and particularly the work of Walt Rostow; Ekbladh however argues that these can be more correctly periodised as emerging from development ideals relating to the Great Depression, as New Deal programmes provided templates for the perpetuation of the *Great American Mission* of a global modernisation process.²⁴ Throughout the 1950s, and particularly in the US context, social science evolved in a way that further consolidated these systems of knowledge production, with the proliferation of 'area studies' as well as the, often parallel, study of development. The regional foci (re)produced notions of a celebration of the free US in American Studies, while Soviet Studies were underpinned by theories of totalitarianism. The proliferation of areas under

²¹ McMichael, *Development and Social Change*, p.56

²² For Example see: Andre Gunder Frank, 'The Development of Underdevelopment' in *Monthly Review* Vol. 18 No. 4 (1966); Theotonio Dos Santos 1970. 'The Structure of Dependence' in *American Economic Review* Vol. 60 No. 2 (1970) pp.231-236; for a contemporary example, African Union, 'What role for the African Union? - L'avenir des relations ACP-UE : quel rôle pour l'Union africaine?' in *The Bulletin of the Fridays of the Commission* Vol. 7 (December 2015)

²³ Duffield, *Global Governance and the New Wars*, pp.22-25

²⁴ David Ekbladh, *The Great American Mission: Modernization and the Construction of an American World Order* (New Jersey: Princeton University Press, 2010)

study, including Asian, South Asian, Middle Eastern, African, and so on, are revelatory in their groupings as to how regions are conceptualised and grouped, as well as these interdisciplinary fields attempting to understand the culture, economies, and - fundamentally - the behaviours of these sites-to-be-known. The application of economic theories of (national) progress, drew upon exceptionalist notions - whereby the US as bastion of modernity, to be copied wholesale, was applied in US foreign policy in tandem with the geopolitical necessities of the Cold War, which coalesced in 'modernisation theory'. Academia itself became a fertile battleground, with scholarly pursuits becoming more engaged with producing policy-relevant research, in solving problems of military or strategic relevance. Funding sources sprung not only from private benefactors such as Carnegie and Ford, but also federal funding, including that from the CIA.²⁵ The 'truth' of development and International Relations was a key front in the Cold War. The ability to produce scientific and objective knowledge on not only specific areas, but also on the rise of the US as the most free and modern nation, could provide policy-makers with the tools to construct a strategy that would facilitate the movement from traditional to modern societies, without the threat of sliding into Marxist revolution. Modernisation would demand material resources, technical knowledge, and moral tutelage.

Both development and modernisation theory, which are often used interchangeably, are both complex and contingent social constructs. Modernisation theory is a specific conception of how societies progress to 'modernity', thus encompassing judgements upon the different stages of nation-state-hood and advocating specific policies to aid in a particular notion of 'development'. What encompasses 'development' relies upon particular spatial and temporal assumptions, and has included a range of theories that consider the correct 'progress' or the desired make-up of societies, which rely upon dichotomous constructions - developed/undeveloped, modern/traditional - the constellations of which shift. The cultural context of modernisation has been understood by Elizabeth Borgwardt as informed by the realisation after WWII that global problems can touch US interests and security: rooted in Roosevelt's economic vision as freedom from want - as discussed in the previous chapter - individual liberty was tied to (a liberal democratic notion of) economic security.²⁶ Modernisation thinkers attempted to construct a pathway to economic security through a carefully planned state-led organisation of the economy.

The school of modernisation dominated developmental thinking in the 1960s: this concerns the evolution and developmental processes of societies, with modernisation being conceptualised as a process which culminates in the relations of an integrated economic and political national system.²⁷ While there is a constellation of perspectives as to aspects of this social, political, and economic evolution, there are some base notions. In the

²⁵ Neocleous, *Critique of Security*, pp.166-169; Sewell, 'Early Modernization Theory?' p.14; Michael Latham, *Modernisation as Ideology: American Social Science and 'Nation Building' in the Kennedy Era* (Chapel Hill: University of North Carolina Press, 2000) pp.7-8

²⁶ Elizabeth Borgwardt, *A New Deal for the World: America's Vision for Human Rights* (Cambridge: Harvard University Press, 2007)

²⁷ Bernstein, 'Modernization Theory' p.145

sociological study of development, the Weberian theory of rationalisation described the movement from traditional society to modern. The processes of rationalisation, said to be distinct to the (Western and capitalist) modern era, entailed the complete structuring of society according to reason and rationality, which then results in the displacement of former values and traditions from public life to the private sphere. The foundational dichotomy between traditional and modern societies, both being 'ideal types' and therefore a subjective abstraction, structured the 'pre-modern' in contradistinction to the 'modern', in other words, what is not modern must be traditional, a sweeping judgement across the complex and diverse constellation of postcolonial states and societies. What is not rational, is traditional. This reformulation also has implications for the individual; implicit within this displacement of values, is the moralising of certain behaviours as modern, such as rationality, determination to succeed and lead, as well as entrepreneurship: a drive that had to be stimulated in traditional societies.²⁸ A key text, penned by a central figure of the Kennedy administration's development policy, was *The Stages of Economic Growth: A Non-Communist Manifesto* by Walt Whitman Rostow. Proposing a historical model of economic growth, Rostow posits five stages that developed countries have passed through in order to realise their economic development. This was a journey that could and should be replicated, to reach the final stage of capitalism and liberal democracy, that of "high mass consumption".²⁹

These theoretical underpinnings informed a developmental project which favoured the interventionist state as the tool to transcend the 'traditional', pre-independence state and coalesce the myriad elements of the economy to create the 'preconditions of development'. Domestically, this interventionism was intended to create the necessary infrastructure and institutions to constitute a state entity, as well as stimulating economic growth.³⁰ In the academic milieu of American social science, modernisation theory attempted to transfer discussions on the meaning of 'modernity' itself from the world of art and literature, to that of politics and statecraft. At a conference address on the problems of the 'new states' in the Middle East, Asia, and Africa held in 1959, the sociologist Edward Shils offered a robust description of 'modernity' itself in relation to the postcolonial world, and placed the modern at the centre of debates on development; the questions of development were not only targeted toward technical fixes, but addressed the very society that the postcolonial *should* be striving towards. Shils presented modernity as concerned with science and technology, with industrialisation and an expertly planned economic system driving innovation. He

²⁸ In a critique of the notion of modernisation, Bernstein notes the ethnocentrism which pervades the theory, where the Western experience of development is lauded as the ideal modern society. Further, he argues that there is no recognition of the "symbiotic relationship" that exists between the traditional and the modern, highlighted particularly in the failure to address the negative effects that can be conjured with the formation of a labour force and the relations of urbanisation. (pp.147 & 154)

²⁹ Walt Whitman Rostow, *The Stages of Economic Growth: A Non-Communist Manifesto* (Cambridge: Cambridge University Press, 1960) The five stages are outlined as, traditional society, preconditions to takeoff, takeoff, drive to mature, and the age of high mass consumption

³⁰ Gustav Ranis, 'The Evolution of Development Thinking: Theory and Policy' *Yale University Economic Growth Center Discussion Paper No. 886* (May 2004) p.4

inextricably tied modernity to the West, but a model that could be followed rather than replicated, as modernity meant "being Western without the onus of following the West". It is worth quoting at length some of modernity's meanings:

"In the new states 'modern' means democratic and equalitarian, scientific, economically advanced and sovereign. 'Modern' states are 'welfare states', proclaiming the welfare of all the people and especially the lower classes as their primary concern. 'Modern' states are meant necessarily to be democratic states in which not merely are the people cared for and looked after by their rulers, but they are, as well, the source of inspiration and guidance of those rulers. Modernity entails democracy, and democracy in the new states is, above all, equalitarian. Modernity therefore entails the dethronement of the rich and the traditionally privileged for their positions of pre-eminent influence. It involves land reform. It involves steeply progressive income taxation. It involves universal suffrage. Modernity involves universal public education. Modernity is scientific".³¹

As Gilman has noted, the vision of the modern was essentially what post-war American liberals *hoped* to build domestically, writ global. While holding the US as a standard, this was an idealised version of America: the modernity proffered was an inclusive 'us', in contradistinction to the competing modernities offered by Russia and China, but a liberalism that was better than before, fulfilling the broken promises, therefore appealing to the new, fertile ground of postcolonial societies.³²

The combination of a domestic anxiety, as well as the belief that the US could provide a universal model, in the struggle to define modernity can be considered through Campbell's theorisation of foreign policy. The distinction between foreign policy - as the practices of differentiation between the self and other - and Foreign Policy - the 'rational' policy, or discourse of power, which emerges from the contestations and negotiations of dangers and how these should be met.³³ The discursive intelligibility of the modernisation foreign policy is informed by a distinction between modernity and tradition, reminiscent of civilisation and barbarism: images of post coloniality and 'tradition' - as well as of international socialism, the competitor for the hearts and minds - were constitutive of notions of the modern, and of the 'us' of the US as the liberal democratic hegemon. Many histories of modernisation theory concentrate upon the experience of the postcolonial world, where Gilman argues that the movement was as much about defining America - and specifically American liberalism - as it was about the postcolonial or communist experience. The existence of Marxist-Leninism as a competing modernity was explained away through its presentation as a deviancy, one that could hopefully be cured and converged, in the realisation of a universal modernity of liberal, capital, democratic society. This modernity was the

³¹ Edward Shils quoted in Nils Gilman, *Mandarins of the Future: Modernization Theory in Cold War America* (Baltimore: John Hopkins University Press, 2003) pp.1-2

³² Shils, *Mandarins of the Future*, pp.2-4 this also includes a quote by the sociologist Robert Bellah 'a modern apology for liberal society and an attempt to show its relevance to the developing world'.

³³ Campbell, *Writing Security*, pp.69-70

realisation of a "high-concept version of Americanism: materialism without class conflict, secularism without irreverence, democracy without disobedience".³⁴ The optimistic opportunity held within the possibilities of modernisation and modernity is captured by Zygmunt Bauman: "The modern mind was born together with the idea that *the world can be changed*. Modernity is about rejecting the world as it has been thus far and the resolution to change it. The modern way of being consists in compulsive, obsessive change: in the refutation of what 'merely is' in the name of what could, and by the same token ought, to be put in its place".³⁵ Enlightenment ideals of progress and continual betterment are present in this notion of 'modernity': that the West - and the US in particular - could and should be the general model for the developing world was recognised, but with the caveat that the promises of modernity are continuing to be worked on there too.

Addressing the UN General Assembly in 1961, President Kennedy inaugurated the 1960s as the 'Development Decade'.³⁶ Domestically, in his first year as president he raised the budget of foreign assistance, and installed various developmental focused programmes and institutions, including the Alliance for Progress as well as US Agency for International Development. The Alliance for Progress envisioned a decade-long aid programme directed toward Latin America, in order to improve hemispheric relations and develop the countries through financial, political, and technical support. Responding to fears of Soviet expansion through their support of 'wars of national liberation'. Modernisation theory underpinned the threat-perception of the Alliance, as Rostow wrote to Kennedy of the huge potential in sustaining such a large-scale modernisation program, not only in reducing the poverty that stoked instability, but it could have "enormous power in catching the public imagination in all countries".³⁷ The international role of the US toward the post-colonial peoples and new nations was addressed in his inaugural speech: "to those people in the huts and villages of half the globe struggle to break the bonds of mass misery, we pledge our best efforts to help them help themselves, for whatever period is required".³⁸ The Rostovian influence was present in the UN address, as Kennedy spoke to the wave of new countries and the struggles of self-determination of casting off the remaining inequalities and problems of independence after colonial rule. The US was committed, Kennedy declared, to aiding the

³⁴ Gilman, *Mandarins of the Future*, pp.12-15

³⁵ Zygmunt Bauman, *Wasted Lives: Modernity and its Outcasts* (Cambridge: Policy Press, 2004) p.23

³⁶ This was the first of the UN 'International Decades', followed by the Second Development Decade and the Disarmament Decade in the 1970s, with decades addressing various subjects, continuing (at the time of writing) until the International Decade of Ocean Science for Sustainable Development planned for 2021-2030 <<http://www.un.org/en/sections/observances/international-decades/>>

³⁷ Rostow quoted in Michael Latham 'Ideology, Social Science, and Destiny: Modernization and the Kennedy-Era Alliance for Progress in *Diplomatic History*, Vol. 22 No. 2 (1998) p.199 Latham reviews the modernisation ideology underpinning the alliance for freedom. For further literature on the alliance see Jeffrey Taffet, *Foreign Aid as Foreign Policy: The Alliance for Progress in Latin America* (New York: Routledge, 2007); In an analysis of the Eisenhower development policy of Brazil, Sewell identifies the continuities that persisted into the Kennedy regime - despite the discontinuous methods - and the adverse effects, Bevan Sewell 'Early modernization theory?: the Eisenhower administration and the foreign policy of development in Brazil' in *English Historical Review*, Vol. CXXV No. 517 (2010) pp. 1449-1480

³⁸ John F. Kennedy, 'Inaugural Address', Washington DC (20 January 1961)

transformation "to the partnership of equals", that could be solved with "patience, good will, and determination".³⁹ Building self-reliant states, while providing the aid and expertise to help them help themselves, was the parlance of early 60s developmental economics. Modernisation was also a key facet of Kennedy's fight against what were regarded as communist-infiltrated 'wars of national liberation': the relationship between modernisation and counterinsurgency as part of a strategy to win the hearts and minds, informed the strategic decisions of the early years of the Vietnam War. Rostow delivered the commencement address at Fort Bragg in 1961, a telling combination. The address spoke to the new dangers to the world that had been unleashed with the decolonisation process. Beyond foreign aid and military assistance programmes, the US had to come to terms with the Third World communist infiltration. Facing this new reality demanded a change in perspective, which could be found in the old counterinsurgency maxim of attempting to win hearts and minds, and to use this framework to contain the spread of revolution and promote western, liberal, capitalist governance. A litany of modernisation scholars were inspired by this changing threatscape, believing their social science to be more relevant to military and policy minds than in academia, as Rostow left MIT to become a White House national security advisor, the political scientist Lucian Pye also left MIT to teach courses in counterinsurgency theory for the State Department as well as advising USAID, and Harvard economist Eugene Staley headed a development mission in Vietnam, to name a few.⁴⁰ The social scientists behind the governmental push for modernisation, articulated a vision of progress, through which the US would also be elevated, as a positive force for change in the postcolonial world, where careful guidance could stave off Marxist insurgency and lead people to the path of 'freedom' as laid out before by liberal, capitalist democracies of the West.

Development and/as Security

The boundaries of colonial and postcolonial administration are porous, without a clear distinction, and many of the developmental logics of colonialism remained: in the initial post-war decades of proliferating independence struggles, the relationship between the state and capital were understood through the ability of the state to control and manage that economy.⁴¹ Development policy is a pivotal scene in which to assess shifting notions of security - as well as the subject of these security strategies - as the power relations that are sustained by this discourse have always been intensely intertwined with security. Duffield has developed a distinction between modernist and neoliberal security. With the ascription of 'modern' being understood as using the state to facilitate the 'economic catch-up', the colonial and initial post-colonial development discourse held within it the recognition of a

³⁹ John F. Kennedy, 'Address to the UN General Assembly' New York (25 September 1961)

⁴⁰ Latham, *Modernisation as Ideology*, p.7-8

⁴¹ Martin Shipway, *Decolonization and Its Impact: A Comparative Approach to the End of the Colonial Empires* (Malden: Blackwell Publishing, 2008)

relationship between the accumulation of wealth and the impoverishment of others, a Keynesian economics offering the ability to apply competing interpretations in constructing a welfare state, in which to pursue a more even distribution of wealth. The liberal imaginary which characterised modernisation was one of progress, and an expanding frontier whereby the non-liberal could become a subject through the process of development. Whereas, with the ascendency of neoliberal thinking, security becomes a project of developing adaptability and resilience, where the individual subject is presented with choices and tasked with their own self-management, self-reliance, and integration into global markets: the poverty-stricken can then be blamed for their own poverty through poor choices. The connection between accumulation and dispossession is broken.⁴² This shift in the subject, is reflected in a changing notion of what threat is posed by underdevelopment, and who is understood to be under threat. The logics of neoliberalism depoliticise the economy and the associated relations of developmental practices: in the 1980s the Washington Consensus praised the stabilising effects and trust placed in the invisible hand of the market, an indiscriminate hand that feeds, supposedly affected only by individual choice. While the importance of the state has re-entered development, the notion of depoliticised capital remains, "the new consensus has analytically weakened and severed the historically intertwined development trajectories of the First and Third World", in a relationship reminiscent of Fanon's scorn of First World self-congratulatory image.⁴³

This periodisation is especially important in terms of human rights, as alongside the development in the US of a human rights regime of truth that was determined according to negative, civil and political rights, the economic relations of society were depoliticised and alternatives shelved. The recognition of positive rights was side-lined as neoliberal logics placed the individual at the centre of their own destiny, economic and social needs to be achieved through the development of the *right kind* of state - one which was open to the systems of the market. Placing the human at the centre of the development project has fundamentally shifted the site of development, the limits of 'growth' moving from external constraints to internal ability. Similar to the modern/neoliberal distinction, Chandler employs a Foucauldian interpretation to expose the shift in the development framework from an Enlightenment project of civilising toward a permanent project of self-development. Drawing upon Foucault's work on the genealogy of the subject, we can examine the governmentalities of development, which have shifted away from the consideration of material factors to the immaterial governance of the self, to fostering the capacity of self-governance. This problematic concerns not only the economic and material concerns, but with the constitution of the 'responsible subject'.

In the opening to the lecture series 'Government of Self and Others', Foucault returns to Kant's essay response to the question, *What is Enlightenment*, in order to interrogate the logics of emancipation underpinning the enlightened subject. In exposing a distinction

⁴² C. Tschirhart, 'Theory Talk #41: Mark Duffield on Human (In)Security, Liberal Interventionism and Fortified Aid Compounds' in *Theory Talks* (2011)

⁴³ Shilliam, 'Haitian Revolution' p.783

between colonial and neoliberal problematics, Chandler argues that the colonial (and early postcolonial) subject was never acknowledged as a liberal subject, but as something of a pre-liberal with the possibility to *become* liberal and therefore autonomous and self-sufficient (but only through external help). Development (in the modernisation imaginary) as a project could gradually universalise autonomy, and make the liberal promise of freedom a reality. Turning to the legitimations of colonial administrators, and specifically in the inter-war period where the leading figures of both the US and USSR - Wilson and Lenin - had articulated visions of universal rights to self-determination, development was expressed as a paternalistic endeavour, enabling the colonial subject to navigate the differing culture and values in becoming a Western subject. Lord Lugard sketched out the 'Dual Mandate' of the imperial project, which he argued benefited both the British and the native peoples, even claiming victory for liberalism in the agitation against colonial rule: "if there is unrest, and a desire for independence, as in India and Egypt, it is because we have taught the values of liberty and freedom".⁴⁴ The civilising task transformed the morally and culturally incapable colonial subject, thus enabling self-determination: they must be developed to become free. In the neoliberal or postcolonial frame, evidenced in Human Security or development-as-freedom, there exists a false foundational premise of universal self-determining subject-hood. The ascendance of 'new institutionalism', considers difference or irrationalities in capital to be a consequences of different rationalities and irrational internal choices rather than external structures or constraints. Chandler posits the dominance of this theory through development as "a defensive understanding of the gap between the promise of freedom and economic progress [...] and the failure to generalise liberal modes of government in the colonial and postcolonial world".⁴⁵

The rise of neoliberal theory excluded Third World and international socialist arguments of economic oppressions and exclusions; in the 1980s, the international debates on the insecurity of underdevelopment was dominated by a liberal interpretation on the question of the causes of conflict and global instability. Echoing contemporary debates on migration in Europe and the US, the international debate as to the 'root causes' on refugee flows - a circulation seen to be overwhelming from the Global South to the North - has also been explored by Duffield as the institution of a notion of underdevelopment as danger, as well as dislodging any culpability of the North in these processes - an ahistoricising of global relations. The 1980s debate within the UN Special Political Committee reveals a discord in diagnosis. While the West placed focus upon domestic tensions such as the violation of human rights and revolutionary upheaval, the East and non-aligned countries pointed toward the international context, including issues such as colonialism, inequality, and deteriorating trade terms. Two subsequent reports were released in 1981 and 1985, but the first - prioritising the Western perspective - gained traction. The Aga Khan report situated

⁴⁴ David Chandler, 'Where is the Human in Human-Centred Approaches to Development? A Critique of Amartya Sen's "Development as Freedom"' in *The Biopolitics of Development: Reading Michel Foucault in the Postcolonial Present*, (ed.) Mazzadra, Reid, Samadar (London: Springer, 2013) pp.75

⁴⁵ Chandler, 'Where is the Human' p.75

conflict and displacement as emanating from complex, internal struggles which hindered the creation of 'conditions in which the population as a whole can expect to enjoy - quite apart from civil and political rights - the economic, social and cultural rights set out in the Declaration of Human rights'.⁴⁶ This report was one of the initial articulations of a now dominant knowledge, that conflict in developing countries is caused by their own inabilities to govern and develop. Before tackling the consolidation of neoliberalism in the institution of Reaganomics and Thatcherism as it consolidated a policy of democracy-promotion in the Reagan administration, the figure of the 'outlaw' state, as the rogueish outsider rejecting international order, must be pinpointed between the Carter and Reagan administrations.

Outlaw States: Hijackings and Hostage-Taking

The danger of underdevelopment became pronounced with the accusation of 'outlaw' status: the sovereign duties of the social contract - and the attribution of 'successful' statehood - has become entangled with a democratic governance characterised by market economic and the expansion of civil and political rights. The 'outlaw' label rose to prominence under the Reagan administration, and is dependent upon an inclusive and agreed upon international law, from which to position oneself as outside. In North American political philosophy, John Rawls furthered the tradition of social contract theory in a discussion of the ethics of sovereign statehood. Developing *A Theory of Justice*, Rawls places 'fairness' and the rights of the individual at the centre of definitions of 'justice'. Proposing a hypothetical "original position", this exercise would involve rational and reasonable participants being ignorant of any political, economic, or social semblance of privilege, and then asked to offer the governing principles that *should* structure their society. The result, arrived at through a mixture of self-interest and reason, can be generally described as a liberal democratic welfare state. In this conception, the individual is free insofar as there is no impediment to the liberty of others, and any inequality could be remedied through a state-organised redistribution and level of care. The state then is tasked with ensuring equality and 'fairness'.⁴⁷ This work on International Relations - one of his last published works - continues Rawls' conception of 'justice as fairness'. Published first as an article in 1993, and then as a book in 1994, Rawls outlines a 'Law of Peoples' as a treatise upon a moral theory of the international: this law was to inform a liberal international society, comprising not only liberal democratic peoples, but being necessarily inclusive of those "decent hierarchical people" who were not quite in the former group. Only certain non-liberal states will be tolerated, and those standing outside of the law comprise the two figures under examination in this study:

"We may distinguish two kinds of non ideal theory. One kind deals with conditions of noncompliance, that is, with conditions in which certain regimes refuse to

⁴⁶ Duffield, *Global Governance and the New Wars*, pp.26 - 30 (Aga Khan quote p.27)

⁴⁷ John Rawls, *A Theory of Justice* (Cambridge: Belknap Press of Harvard University Press, 1971); Paul D. Miller, *Armed State Building: Confronting State Failure, 1898-2012* (Ithica: Cornell University Press, 2013) p.45

acknowledge a reasonable law of peoples. These we may call outlaw regimes. The other kind of non ideal theory deals with unfavourable conditions, that is, with the conditions of peoples whose historical, social, and economic circumstances make their achieving a well-ordered regime, whether liberal or hierarchical, difficult if not impossible".⁴⁸

This notion of an equal justice in the international is present throughout the history of conventions and treaties, and as Chomsky has aptly argued, many remain unratified by the powerful or expressly flouted, who remain *above* the law as opposed to outside.⁴⁹

However, this study focuses upon the questions of what comprises the law-abiding, and who is understood as flouting law. The fundamental tenets of "justice between free and democratic peoples" are laid out by Rawls in seven laws: people are free and independent; equal and party to their own agreement; have the right to self-defence but not to war; the right of autonomy/duty of nonintervention; people must observe treaties and undertakings; the observation of the laws of just war; and finally, to respect human rights. By the late 1990s, concerns for the human rights of the peoples within these 'outlaws' had become a legitimate ground for the right to war as theorised in Rawls philosophy of liberal justice.⁵⁰ Thus, the duty of non-intervention and the somewhat paradoxical notion of respecting a (domestic) observance of human rights appear. However, when 'outlaw' regimes were first pitched in the Carter administration, this was to address a diplomatic quagmire directly involving US citizens which challenged the precepts of modernisation theory, and placed the destabilising effects of lawlessness front and centre.

The Carter administration oversaw a series of diplomatic challenges, and critique often centred around his inexperience, and particularly his 'idealistic' and 'naively moralistic' international worldview. The Iran hostage crisis was a disastrous event for the credibility of the Carter regime on the question of foreign policy, only cementing critiques of his diplomacy, as well as directly challenging the precepts of modernisation theory. To give a short summary of the Iranian hostage crisis, as well as the specific contextual background in US-Iranian relations, the standoff lasted for 444 days, where both US diplomats and citizens were held at the embassy in Tehran. The occupation of the embassy was a facet of the Iranian revolution: perhaps better described as a show of support for the revolution and an act of defiance by students against the US relationship with the overthrown Shah.⁵¹ The question of human rights was discussed in US state department memos and policy reports on the question of crisis, considering both the pre- and post-revolution record.

Iran had been an integral regional ally in the Cold War, a Third World allegiance

⁴⁸ John Rawls, *The Law of Peoples with "The Idea of Public Reason Revisited"* (Cambridge: Harvard University Press, 1999) p.90: John Rawls, 'The Law of Peoples' in *Critique Inquiry* Vol. 20 No. 1 (1993) pp.36-68

⁴⁹ Noam Chomsky, *Rogue States: The Rule of War in World Affairs* (London: Pluto Press, 2000)

⁵⁰ Thus, the only legitimate grounds of the right to war against outlaw regimes is the defense of the society of well-ordered peoples and, in grave cases, of innocent persons subject to those regimes and the protection of their human rights.

⁵¹ See: Babak Ganji, *Politics of Confrontation: The Foreign Policy of the USA and Revolutionary Iran* (London: Tauris Academic Studies, 2006); Christian Emery, *US Foreign Policy and the Iranian Revolution: The Cold War Dynamics of Engagement and Strategic Alliance* (New York: Palgrave Macmillan, 2013)

cemented in the Nixon era, acting as a balance against the major threat in the region, Iraq. The US relationship with the Shah was one of mutual interest, as the Shah was keen to embrace the doctrine of modernisation, which the Kennedy administration whole-heartedly embraced with expertise and financial support.⁵² The Carter human rights-led policy, as noted, introduced aid conditionality as behavioural markers, and envisioned a US role of leadership in inspiring rights as inherently 'US values'. The White Revolution of the Shah, so-called due to its supposed lack of bloodshed, from the early 60s until his overthrow in 1979 was an attempt to shift from traditional to modern society, but one which created much upheaval and unrest. Indeed, the human rights-centric position of Carter's foreign policy had worried the Shah, whose violations and repression had been brutal, pervasive in Iranian society, and well-reported. While the Carter presidency did continue to push for human rights reforms in the country, these were with reservations and caveats, avoiding punitive conditionality. In the initial phases of the Iranian revolution, a State Department memo 'Human Rights Goals', opens with the note that US interests in this subject must be considered "against a complex set of factors" including: the US enjoying a "broad and valuable relationship with the country; the 'ancient' authoritarian governance; the security situation being hostile to the USSR; and finally, the fast-paced modernisation reforms. Recognising diverse and broad economic and political opposition, the State Department aims to implement a targeted and gradual encouragement of "political liberalization", focused squarely on "civil and political liberties".⁵³ The White Paper following the revolution, noted that it was "sparked in large part by unanimous revulsion over human rights violations committed during the reign of the Shah" but did not elaborate further.⁵⁴ The president's New Year visit to Tehran, declaring his appreciation for the Shah as leader of an "island of stability" has been widely criticised as a catalyst of opposition - the Shah confident of US support, thus representing to the Iranian people a frank dismissal of their plight.⁵⁵ Examining the competition between the US and USSR over Third World countries, Westad has explored the degradation in the US relationship and the shift across administrations, as well as the rise of Khomeini to power, returning from a period of exile. The Iranian revolution was significant as an example of the shift in the position of the Third World: not dictated by the power plays of binary superpowers, instead offering an alternative vision of modernity, one that arose from the Third World itself, in Islamism. Condemning the modernisation that was being enforced, was not a rejection of modernity

⁵² Odd Arne Westad, *The Global Cold War: Third World Interventions and the Making of Our Times* (Cambridge: Cambridge University Press, 2007) p.290

⁵³ From Ollie Jones to Mr. Salmon, Mr. Cohen, Mr. Schneider 'Iran's "Strategy Paper"' 9 August 1978 [Memorandum] Department of State, NARA MD, RG 59 Police and Planning Staff, Office of the Director, Records of Anthony Lake, 1977-1981, entry P9, in Folder Iran-Misc-Nove, 79 and previous, in Box 19, Iran-Misc, Nov '79 & Prev to A Chronology of Iran, 1941-1979.

⁵⁴ 'Iran White Paper' [Memorandum] NARA MD, RG 59 Policy and Planning Staff, Office of the Director, Records of Anthony Lake, 1977-1981, entry P9, in Folder Iran White Paper, in Box 19, Iran-Misc, Nov '79 & Prev to A Chronology of Iran, 1941-1979. p.23

⁵⁵ John Gilbert, 'Jimmy Carter's Human Rights Policy and Iran : A Re-examination, 1976-79' in *Madison Historical Review* Vol. 5, Article 1 (2014) pp.1-25

itself, but as Westad notes, Khomeini called for the embrace of technology and "organizational methods" of modernity, repeatedly stressing that Muslims needed greater access to the knowledge of development.⁵⁶ The hostage crisis exposed the vulnerability of the US in terms of their diplomatic relations with revolutionary Iran, while it remained outside of the Soviet sphere of influence, the usual frame of reference in the geopolitical context.

As explored in the previous chapter, the aid conditionality pushed by Congress placed human rights on US foreign policy, and introduced negative civil and political standards for the reception of both military and economic assistance from the US; however, the question of Iran, as well as considerations of other countries that were concerned with the spate of plane hijackings in the 1960s and 1970s, sparked the development of another conception of a dangerous international outsider.⁵⁷ These states on the margins - all also in various forms of the (post-)colonial - were conceived without reference to rights-norms, but through their external behaviour. What would become 'outlaw' states, later termed 'backlash' and then 'rogue', were considered in terms of their exclusion from the benefits of international law and norms of protection, due to their own lack of reciprocity. The term 'outlaw state' did not enter US foreign policy rhetoric until the Reagan administration, however, it did appear in a list of possible actions to be considered in the Iranian crisis by Anthony Lake. Lake, one of the most prominent actors in foreign policy-making in the Clinton administration, had a long and prestigious career in the State Department (as one might expect). Under the Carter administration, Lake held the role of Director of Policy Planning, indicative of his role between the academic and political in policy-making. In a proposed checklist of all non-military (considering economic, political, commercial, and consular) options that could be taken against Iran, both unilateral and multilateral, the first unilateral example was to "declare Iran an Outlaw State". It is apt that Anthony Lake, who would introduce the term 'backlash state' in the 90s, submitted this suggestion. Lake tentatively introduced the figure of the 'outlaw', which "would be an innovation in jurisprudence" but one that may be acceptable "under the extraordinary circumstances of the Iran situation".⁵⁸ The notion of excluding a nation from international law was couched in terms of the international obligations of sovereignty, and Iran's transgression of these fundamental norms as unsettling international stability:

"Declare by Executive Order that Iran is no longer entitled to access our courts or to the benefits of sovereign immunity, because its conduct has made it an international 'outlaw'. By violating international law and principles of US sovereignty,

⁵⁶ Westad, *The Global Cold War*, specifically p.295-296 but also 288-299

⁵⁷ Refer to chapter 2.3. also in terms of hijackings across the 1960s and 1970s see: Brendon I. Koerner, *The Skies Belong to US: Love and Terror in the Golden Age of Hijacking* (New York: Crown Publishers, 2013); Bartholomew Elias, *Airport and Aviation Security: U.S. Policy and Strategy in the Age of Global Terrorism* (London: CRC Press, 2009) Chapter 1; Thom Patterson, 'How the Era of "Skyjackings" Changed the Way We Fly' in CNN (2 October 2017)

⁵⁸ Anthony Lake, 'Checklist of Non-Military Options Against Iran' (10 April 1980) [Memorandum] NARA MD, RG 59 Police and Planning Staff, Office of the Director, Records of Anthony Lake, 1977-1981, entry P9, in Folder Iran-Misc. April-June 80, in Box 19, Iran-Misc, Nov '79 & Prev to A Chronology of Iran, 1941-1979.

Iran has destroyed the minimum degree of mutuality between sovereign states which is an implied but basic assumption of traditional doctrines on foreign state access and sovereign immunity".⁵⁹

This outlaw behaviour was thus not in reference to domestic treatment of their own citizens, but faced with the diplomatic cul-de-sac of the hostage crisis, the application of this label was to signify a state who could not be reasoned with, who did not conform to the basic principles of mutuality. Stressing the novelty of flouting sovereign immunity, such a designation would rest upon the reneging of mutual respect, and the violation of US sovereignty.

The hostage crisis was ultimately managed through a series of sanctions (as well as one failed military operation), and these punitive measures were rooted in the attribution of a 'terrorist threat'. Executive Order 12211, declared a national emergency, with respect to Iran and the recent Soviet invasion of Afghanistan, calling for the denial of resources that would "aid, encourage or give sanctuary to those persons involved in directed, supporting, or participating in acts of international terrorism".⁶⁰ The government of Iran then stood accused of supporting and harbouring terroristic groups and tendencies, a view of roguery that has survived to this day: however, intertwining the regime with terrorism was not associated with the domestic nature of the society, and related human rights record, an association which was added in the Reagan administration. Reagan introduced the discursive formation of the rogue state that would be called upon by Bush in the War on Terror: the assertion that these states sponsor terrorism, could (illegally) obtain weapons of mass destruction, and that their domestic regime is reflective of their external volatility.

Reagan: Dictatorships, Outlaws, and Double Standards

The Reagan administration institutionalised two important legacies in US foreign policy under investigation: (1) democracy promotion and (2) the tying of domestic regime type to international (in)security. The international outlook of the incoming administration had been campaigned on a platform of staunch anti-communism, a staff of Cold Warriors who rued the naivety of *detente* and advocated an active strategy of 'rollback'.⁶¹ The problematisation of state sovereignty, warranting some level of interference by an external actor - the US - was framed in the rhetoric of Cold War geopolitics, and explicitly tied democracy and democratic governance to the countering of Communist expansion and the spread of US ideals of freedom and prosperity. The Reagan engagement with authoritarian regimes - committing gross violations against human rights - was underpinned by a critique of Carter. Jeanne Kirkpatrick's (in)famous essay 'Dictatorships and Double Standards', posited totalitarian Communist regimes as worse than those merely authoritarian who were

⁵⁹ Anthony Lake, 'Checklist of Non-Military Options'

⁶⁰ Executive Order No. 12211, 'Further Prohibitions on Transactions with Iran', (17 April 1980), 45 FR 26685, 3 CFR (1980) p.253

⁶¹ The ties of neoconservatism with the Reagan administration are explored in chapter 2.5

allied with the US, such as in Latin America, and argued that to force weak governments, susceptible to Leftist revolutionary elements (such as in Iran), the US was not only undermining national security but the realisation of liberty in the longer run. By retaining US friendly relations, democratisation could be fostered slowly.⁶² The essay captured the attention of Reagan, and the 'Kirkpatrick Doctrine' was hugely influential in the early administration, as she was installed as the US ambassador to the UN. In an interview with Walter Cronkite, the journalist pressed the president for his stance on the place of human rights in foreign policy, taking note of his recent appointee as head of the human rights section who had previously testified that human rights standards should not be applied to sovereign nations. Reagan took a Kirkpatrickian line of argumentation, referring to a supposed relative lack of attention to the 'evil empire':

"We took countries that were pro-Western that were maybe authoritarian in government, but not totalitarian, more authoritarian than we would like, did not meet all of our principles of what constitutes Human Rights, and we punished them at the same time we were claiming détente with countries where there were no Human Rights. The Soviet Union is the greatest violator today of Human Rights in all the world".⁶³

The evocation of 'evil' not only refers to a fundamentally bad, rotten core, but also constitutes its opposite, the good.

Reagan painted the Cold War as one fundamentally of ideas, the military posturing being a manifestation of fundamentally opposed ways of life locked in an existential battle. The status quo, and stability through balance of power was not acceptable, rather Reagan's international was informed by a moral struggle, and the drive toward regime change (primarily with reference to the Soviet Union but also referring to those Third World regimes that were - at least portrayed as - under the thumb of Marxist-Leninist ideology). The famous "crusade for freedom" that was articulated at Westminster in 1982, put forward ultimate aim of realising "inalienable and universal" human rights, concluding that "for the sake of peace and justice, let us move toward a world in which all people are at last free to determine their own destiny".⁶⁴ The truly alienable nature of these supposed 'inalienable' rights has been explored in the previous chapter, with Reagan rejecting state interference and championing individual responsibility and self-fulfilment (with little external interference). Nonetheless, it is important to note the legitimate form of government (therefore the implicit illegitimate forms) that is then exclusively associated with freedom, with the protection of human rights, with peace, and justice. The ability to call upon human rights authoritatively, unequivocally associating human rights with the righteous free world, bears witness to the subjugated knowledges on human rights.

Reagan introduced a hierarchy of human rights abuses, with 'totalitarian' communist

⁶² Jeanne Kirkpatrick, 'Dictatorships and Double Standards' in *Commentary* (November 1979)

⁶³ Ronald Reagan, Excerpts From an Interview With Walter Cronkite of CBS News' *Public Papers of the Presidents: Reagan* (3 March 1981)

⁶⁴ Ronald Reagan, 'Speech to the House of Commons', Westminster, UK (8 June 1982)

regimes being unequivocally the most brutal and the farthest from democracy. As a centrepiece of the Reaganite international, the hostility and distrust between the two superpowers was painted in terms of the valuation of human life and the role of the state. The 1973 National Security Decision Directive 75 elaborated upon the various issues that Reagan wished to push in relation to change in the Soviet Union, that would coalesce into the 'four-part agenda' which comprised; human rights, bilateral relations, arms control, and regional conflicts.⁶⁵ At the 1985 US-USSR summit in Geneva, Reagan referred to the theme of mistrust - a theme that he would return to time and again - asserting that a lack of trust was fuelling the arms race, and not the other way around. The following year in Reykjavik, Reagan prepared to introduce each facet of his four-part agenda, and directly tied the arms race, and the larger context of belligerence, to conflicting styles of government: "We arm because we don't trust each other. So we must get at the human rights problems and regional disputes that are at the source of distrust".⁶⁶ Trustworthiness was thus tied not only to conduct on the international plane, but to the treatment of its own citizens. Human rights were inextricably linked to international peace in Reagan's attack on the Soviet human rights record. Trust at the international level was fundamentally tied to notions of what rights were afforded the human, and as these rights were tied to citizenship, what kind of regime was able to protect this humanity. Reagan made even more explicit the centrality of human rights to discussion on arms control: "For a government that will break faith with its own people cannot be trusted to keep faith with foreign powers".⁶⁷ The sovereign duty is tied to the protection of human rights - human rights being evoked as a universal and self-evident construct, limited to individual freedom with restricted governmental intervention. The third world countries that came into the picture in this discourse were those that were, at least according to the US, linked to USSR interference, in terms of 'regional disputes': the US made reference to Afghanistan, Iran, Iraq, Angola, and Nicaragua. Just ten years after Congress introduced human rights into US foreign policy practice in aid conditionality, Reagan could reference human rights as a unified discourse of freedom read as US values, in order to question the trustworthiness of a country in international dealings (while also conducting covert operations themselves it should be noted). While not a standard of

⁶⁵ Ronald Reagan, 'National Security Decision Directive Number 75: U.S. Relations with the USSR, January 17, 1983' in *National Security Decision Directives of the Reagan and Bush Administrations: The Declassified History of U.S. Political and Military Policy 1981-1991*, ed. Christopher Simpson (Boulder, CO: Westview, 1995) pp.255-63: also see George P. Shultz, *Turmoil and Triumph: My Years as Secretary of State* (Toronto: Maxwell Macmillan, 1993)

⁶⁶ Henry R. Nau, 'Ronald Reagan' in *US Foreign Policy and Democracy Promotion: From Theodore Roosevelt to Barack Obama*, (ed.) Cox, Lynch, Bouchet (London: Routledge, 2013) p.140; See also B. Wayne Howell, 'Reagan and Reykjavik: Arms Control, SDI, and the Argument from Human Rights' in *Rhetoric and Public Affairs* Vol. 11, No. 3 (Fall 2008) pp.389-415. Howell characterises the four-part agenda as: "(1) placed Soviet human rights abuses, and the ideology he claimed supported those abuses, in the fore- ground of disarmament dialogue; (2) characterized current Soviet human rights abuses as the continuation of historical Soviet practices; (3) linked the issues of human rights and international peace; and (4) used SDI to encourage Soviet leaders to make changes in their human rights policies and practices" p.397

⁶⁷ Reagan quoted in Laura Considine, "Back to the rough ground!" A Grammatical Approach to Trust and International Relations' in *Millennium: Journal of International Studies*, Vol. 44 No. 1 (2015) pp. 109-127.

sovereign intervention, a standard of 'sovereign mutuality' – i.e. mutual trust and therefore international peace.

Carter's human rights policy was critiqued not only for endangering security but for being counterproductive in enabling the spread of the worst violator of all. The conclusion of such thinking points toward the US funding and supporting of Contras in Nicaragua, various right wing rebel groups opposed to the Sandinistas, which will be elaborated upon below. A Human Rights Watch report on Nicaragua in 1989 opened with the use of publicised human rights issues, concluding that the US coverage "exaggerated and distorted" those of the Sandinista regime, and "exculpated those of the U.S.-supported insurgents".⁶⁸ The US policy was legitimised through a discursive linking of terrorism and communist-inspired totalitarianism.

In a 1985 speech to the Convention of the American Bar Association, Reagan outlined the existence of a network, or a 'confederation' of states which sponsor terrorism, what he referred to as a 'Murder, Incorporated'. The degree of these states involvement with acts of terror extend to training, financing, and even controlling (directly or indirectly) terrorist organisations. The consistency of the 'pattern' which Reagan presents is explained by their shared aim, "united by one simple criminal phenomenon - their fanatical hatred of the United States, our people, our way of life, our international stature".⁶⁹ He labels these "radical and totalitarian" regimes as "outlaw states", and names five perpetrators: Iran, Libya, North Korea, Cuba, and Nicaragua. Existing outside of the law, the criminal activity in this system is not only terrorism, but this act is rhetorically tied to opposition to the US, and the international order they uphold. These states are presented as an existential threat, as engaged in a war. The 'totalitarian' nature of these regimes is placed at the forefront, thus marrying their repressive domestic structure to their threat to the US and support of international terrorism. The outlaw is then knowingly, or at the very least passively, enabling the violation of international law. Sponsoring of terror abroad, and the related hatred of the US, is directly linked to their repression at home. A freedom that nonetheless must be defended, as while totalitarian governance was on the wane, in these death throes, they are prone to lash out. In an extended comparison of totalitarianism and democracy, and evoking the hyper-exceptionalist image of the shining city upon a hill, the US is presented as the epitome of freedom. The irrationality of outlaw leaders was also called upon in reference to the Strategic Defense Initiative, as a defence against threats from 'outlaw regimes', referring to the catastrophic possibility that such states could gain access to ballistic missile technology. Questioning both competency and rationality, Reagan stresses the need for an "insurance policy", as "we've had madmen come to power before in countries in the world".⁷⁰ The status as outlaw, discursively connected repressive regimes

⁶⁸ Human Rights Watch, *Human Rights Watch World Report 1989* (New York: Human Rights Watch, 1989)

⁶⁹ Ronald Reagan, 'Remarks at the Annual Convention of the American Bar Association', Washington DC, *Public Papers of the Presidents: Reagan* (8 July 1985)

⁷⁰ Ronald Reagan, 'Remarks to Administration Supporters at a White House Briefing on Arms Control, Central America, and the Supreme Court', Washington DC, *Public Paper of the Presidents: Reagan* (23 November 1987)

with the sponsoring of terrorism as well as the acquisition of an enhanced weapons capability. This shift in rhetoric toward problematic Third World countries, whether linked to the USSR or not, was used to justify a preemptive military presence in these countries, framed as protecting US citizens and, hyperbolically, as defending freedom.

The National Security Decision Directive 138 'Combatting Terrorism' posits terrorism as a common threat to democratic nations and their way of life. The directive was an authorisation of preemptive action against terrorist groups, or rather, the sovereign states from which these non-state actors operated. The US was then depicted as responsible for holding to account state-sponsors, and authorised the use of force to prevent, counter, and combat terrorist forces. By tying terror to these Third World 'totalitarian' states, particularly in the case of Nicaragua, already involved in a covert war in which norms of nonintervention were being flaunted, the Reagan administration could legitimise the preemptive use of force, challenging international law and sovereign autonomy.⁷¹ In the press pack for NSDD 138, a worrying trend of "state terrorism" was diagnosed, with the assertion that "we must recognise that terrorism is symptomatic of larger problems. We must dedicate ourselves to fostering modernization, development, and beneficial change in the depressed areas of the world".⁷² Underdevelopment had the potential then to be dangerous not only in terms of migratory flows, but in the fostering of terrorism. The foreign policy of the latter half of the Reagan Presidency was characterised by this aggressive, unilateral, and preemptive stance, as in 1986, George H.W Bush chaired the first 'Task Force for Combatting Terrorism'. The Vice-President took on a central role in the publicising of this zero-tolerance approach, particularly with reference to the counter-terrorism programme in Nicaragua.⁷³ In the 'developing' world, revolutionary violence was widespread, particularly in Latin America and the Middle East. The Reagan administration's application of the 'terrorist' - and adjoining 'outlaw' - ascription, made no distinction between international terrorism and guerrilla movements, thereby rendering all action as 'anti-US' and therefore as illegitimate and uncivilised. In an interrogation of Reagan's antiterrorism initiative through the proxy war in Nicaragua, Travis posits the approach to international law, sovereignty, and conflict in the developing world as a forerunner of the Global War on Terror. The war against the Sandinista government and the congressional approval of arm sales in 1986 is highlighted as heralding an aggressive and preventive strategy of regime change. The discursive linking of terrorism with regimes in the developing world which were deviating from the US was deployed "as a propaganda device and as a way of characterising international relations policy against revolutionary groups and nations".⁷⁴ The explicit and repeated linking of

⁷¹ Ronald Reagan, 'National Security Decision Directive 138: Combating Terrorism', White House (26 April 1984); See also, Carol Winkler, 'Parallels in Preemptive War Rhetoric: Reagan on Libya; Bush 43 on Iraq' in *Rhetoric and Public Affairs* Vol. 10 No.2 (Summer 2007) pp.303-333

⁷² 'Press Release Combating Terrorism', FOIA Documents Relating to NSDD138 (19 August 1985) in Folder, Folder D-40 Terrorism in Box 13 - Centre for National Security Studies, National Security Archive, Washington DC.

⁷³ Philip W. Travis, *Reagan's War on Terrorism in Nicaragua: The Outlaw State* (Maryland: Lexington Books, 2017) p.116

⁷⁴ Travis, *Reagan's War on Terrorism*, p.3

terrorism with totalitarian states, also disassociates the 'authoritarian', right-wing movements and repressive governments, from being illegitimate and illegal in their uses of violence.

In a contemporaneous close reading of the Nicaraguan constitution, Reding critiques the level of interference that had been conducted by the Reagan administration in the country, as violating both domestic and international law. This ability to act outside of the law toward a state it demonised as an outlaw is explained through discursive manipulation, placing Nicaragua within Cold War geopolitics. Such a simplified characterisation had permeated in the public discourse, as the media were fearful of accusation of communist sympathising or relativising, with the *New York Times* accusing the Sandinistas of "Stalinizing the revolution". Reding unsettles this simplistic dichotomy in noting the complexity of the country's governance: while subscribing to Marxist-Leninist political philosophy, there remained a strong parliamentary opposition. Far from a Soviet copy, Reding describes a distinct form of governance informed by the country's post-colonial history: "In essence, the Sandinistas have staked out an innovative middle course between East and West, seeking a creative synthesis of economic and political democracy, Marxist organisation, and Christian ethics".⁷⁵ This new path to modernity is highlighted through analysis of the constitution as revelatory of the past, present, and future of the country, as well as the contained debate on the revolution abroad in terms of the relative scant attention paid. The constitutional drafting process is described as a pluralistic affair, encompassing various parties across the political spectrum as well as the Catholic church, culminating in a combination of both the Western civil and political rights as well as the Soviet social, economic, and cultural rights. The inclusion of the various international treaties on human rights is described by Reding as the centrepiece of the document. Detailing the debates, the Sandinista's prioritised both freedom *from* as well as freedom *to*. The latter initially replicated the Cuban revolution, however, under criticism from the centrist parties - and in the context of war and instability in the country - the language was tempered to that of the International Covenant. Nonetheless, Reding notes that equal rights formed a core of the constitution, that prioritised the basic needs of the poor and thus enabled governmental intervention in market forces to ensure their fulfilment. Issues such as food distribution, health care, as well as provisions for women's rights and the cultural rights of indigenous peoples - both in response to previous oversight or, in the latter case, persecution in the early stages of the revolution.⁷⁶ The constitution also situated the country internationally within the nonalignment movement, and championed sovereign autonomy. This close reading is at odds with the Reaganite discourse of Nicaragua as a Soviet shill. The inclusion of this example is not to evangelise, but rather, the constitution offers an example of a more

⁷⁵ Andrew Reding, 'Nicaragua's New Constitution: A Close Reading' in *World Policy Journal* Vol. 4 No. 2 (Spring 1987) p.2. Reding describes the style of governance as 'an entirely new form of Marxism informed by the Christian theology of liberation and a strong nationalist sentiment—both of which are a reaction to the country's long history of social injustice and foreign domination.'

⁷⁶ Reding, 'Nicaragua's New Constitution'

complex reality in Nicaragua, a country also struggling with constant foreign interference and aggression. The Reagan rhetoric toward Nicaragua is also indicative of the gradual shift in the meaning of terrorism in US foreign policy from a term denoting violence against civilians, terrorist movements originating from anywhere on the political spectrum, toward a state-based approach that specifically references left-wing government (totalitarian as opposed to authoritarian) in post-colonial spaces.

Democracy Promotion as Human Rights Protection

Henry Nau (who served on Reagan's national security council), described the administration as "inaugurating the era of democracy promotion"; he presents a portrait of the President as steeped in the idealism of American exceptionalism, who believed that ideas drive world power (and the contests therein), which informed a policy where democracy was placed within a Cold War rationale, where democratic government was inextricably linked with US values of freedom and human rights, perpetuating the American way of life.⁷⁷ This account unproblematically reproduces the notion that the US equals freedom. Reagan's democracy promotion was directed toward the Third World, and the search for a way to halt and reverse revolutionary movements that could weaken US geopolitics. What was implemented was a strategic framework that could be applied across the board, with democracy promotion intertwined with national security. Democracies could be trusted, democracies are peaceful, democracies are friends of the US. Nau outlines five mechanisms of democracy promotion: a US domestic example to serve as a model - the shining city upon a hill; the creation of international conditions amenable to democracy, in particular referring to security and economy; institutionalising the provision of support to regions or nations developing democratic governance; the use of diplomatic or economic pressure upon the non-democratic, particularly focusing on human rights violations; and finally covert or overt military intervention.⁷⁸ The promotion of democracy therefore demands the definition of a legitimate democracy, and clearly, one that is practiced at home.

One of the most influential, and lasting effects of this policy was the establishment of an infrastructure for democracy promotion through the institution of the - legally private but government funded - National Endowment for Democracy (NED). Conceived as a direct response to Carter's failure to curb revolution in Nicaragua, this strategy of democracy promotion could preemptively provide support to democratic movements in unstable dictatorships, that would be able to take power. Creating a strong and organised democratic movement to prepare for collapse, as opposed to the destabilising of a weak government through liberalisation demands, and then reacting to the revolutionary swell. The NED was the fruition of Reagan's Westminster call to "foster the infrastructure of democracy".⁷⁹ In

⁷⁷ Nau, 'Ronald Reagan'

⁷⁸ Nau, 'Ronald Reagan' pp.147-152

⁷⁹ Reagan, 'Speech to the House of Commons'

the early 80s the question of a global strategy of democracy promotion had been banded around Washington circles, but it was a study conducted by the explicitly bipartisan 'American Political Foundation' - which became referred to as 'The Democracy Programme' - that offered an organisational answer, in what became the NED.⁸⁰ The year of the 'crusade for freedom' address, Reagan introduced to Congress legislation to create the NED and the affiliated institutions: the International Republican Institute, the National Democratic Institute for International Affairs, the Centre for International Private Enterprise, and the free Trade Union Institute. These four core areas would be largely independent, while connected through the endowment under the umbrella of democracy promotion, clearly focused on a neoliberal notion of democracy with a focus upon free enterprise. Through the awarding of grants to private (American) NGO's, democracy was to be fostered from within. In the 'war of ideas', this could allay the unease some felt with continuing friendly relations with authoritarian regimes, while retaining an anti-Communist perspective. In the congressional debates, the vague and overarching activities of the NED were evident as Congress members spoke of targets encompassing authoritarian to totalitarian regimes and international communism, while the benefits of aiding groups in Poland to El Salvador were discussed⁸¹. The institution of the NED, and its continued prominence in US foreign affairs, highlights the shift between modern and postmodern/neoliberal development. Duffield links the expansion of the NGO movement with the aim of altering the behaviours of the poor (toward an entrepreneurial mindset), asserting that "the growth and indigenisation of the aid industry, together with all the employment it has created, is largely made up of an army of local aid workers trying to change the behavior and widen choices at the community level".⁸² Rampant neoliberalisation processes that were inducted under Reagan and Thatcher, drew upon this ability to call upon a legacy of not only freedom but democracy.

Neoliberalism: 'There is No Alternative'

Neoliberalism began as a counter-movement against the dominance of Keynesian economics, as an attempt to address what the proponents saw as a threat to the individual liberties that sustained the capitalist world order. Critique of the unnecessary and excessive practices of state intervention, formed an international movement of 'market-radical economists' who advocated freedom as realised under freedom of the market, including notable figures such as Friedrich von Hayek, Walter Lippmann, Ludwig Mises, Milton Friedman, and even Karl Popper. The founding of the Mount Pelerin Society in 1948, under the direction of esteemed economist Hayek, encompassed a tight-knit society with members from academia, research networks, and foundations, who were joined by a

⁸⁰ See Robert Pee, *Democracy Promotion, National Security and Strategy: Foreign Policy under the Reagan Administration* (Oxon: Routledge, 2016)

⁸¹ Pee, *Democracy Promotion, National Security and Strategy*, p.143

⁸² Tschirhart, 'Mark Duffield on Human (In)Security' p.5

dedication to promoting neoliberal thought and practice. The founding statement sounds the alarm, in proclaiming that:

"the central values of civilization are in danger [...] Even that most precious possession of Western Man, freedom of thought and expression, is threatened by the spread of creeds which, claiming the privilege of tolerance when in the position of a minority, work only to establish a position of power in which they can suppress and obliterate all views but their own"⁸³.

Freedom is the battleground, where the practice of economic planning is inherently tied to the suppression of political liberty. The adherence to the principle of personal freedom informed their self-identification as inherently 'liberal', which they argued would be assured through free market economics, which the enlarged power of the state had fundamentally obscured. Their target then was not only socialism, but the Keynesian economic notions that they claimed were weakening the fundamental freedoms that sustained capitalism. The Mont Pelerin society gathered financial and political support from powerful actors opposed to strict regulation, and became the centre of a large network of think tanks and individual proponents, as well as gaining traction in university economic departments. However, it was not until the 1970s that neoliberalism would move from the margins to the mainstream of economic domestic and developmental politics. The end of the 1960s had signalled an oncoming crisis in 'embedded liberalism', both internationally and within domestic economies. Signs of a serious crisis of capital accumulation were everywhere apparent, as unemployment and inflation led to a global 'stagflation': the economic growth which had been enjoyed in much of the 'first world' since the end of the second world war ground to a halt, Keynesianism was failing, compounded by the Arab-Israeli War and the resulting oil embargo in 1973, as well as the collapse of the Bretton Woods system.⁸⁴ Neoliberal thinkers held economic planners to account, and the academic credentials were bolstered by the Nobel Prize in economics awarded to Hayek in 1974, and to Friedman in 1976. Turning neoliberal principles toward dynamics of development, Latin America proved a laboratory, as Friedman's disciplines at the University of Chicago - the 'Chicago boys' - were called to aid in the reconstruction of the Chilean economy following the US-backed coup against Allende which brought Pinochet to power.⁸⁵ The election of both Thatcher in the UK and Reagan in the US, marked the institutionalisation of neoliberal economics, moving the logics of deregulation and free markets from the periphery to the centre. Thatcherism and Reaganomics closed the debate, as Thatcher's famous slogan attested 'There is no Alternative'. A rather muted tone, not of triumphant victory or of optimism, but rather that market economy had seemingly proven to be the only system that worked.

The ascension of neoliberalism in the 1980s also witnessed the rise of an alternative

⁸³ David Harvey, *A Brief History of Neoliberalism* (Oxford: Oxford University Press, 2005) p.20; Philip Morowski, Dieter Plehwe (ed.) *The Road from Mont Pelerin: The Making of the Neoliberal Thought Collective* (Cambridge: Harvard University Press, 2009)

⁸⁴ Harvey, *Neoliberalism* pp.21-22

⁸⁵ Harvey, *Neoliberalism* pp.8-9 Harvey also details how they were chosen.

vision of development, one which erased the relationship of accumulation and dispossession from the ongoing 'problems' of the Third World, which Kennedy had referred to when introducing the development decade as the "remaining problems of traditional colonialism". The 'special relationship' of Reagan and Thatcher introduced a neoliberal agenda to the problem of persistent global poverty. Addressing the 1981 North-South conference in Cancun, Reagan delivered what has become known as the 'magic of the market' speech, introducing a neoliberal solution to development, the same year that the Aga Khan report linked conflict to underdevelopment. Neoliberalism instituted an economics based upon trade liberalisation, deregulation, privatisation, and a rejection of state based capitalism (and statist development). Across the 1980s, neoliberalism became the language not only of international finance institutions such as the IMF, but pervaded the discourse of elites in the Global South, shifting from an internationalist perspective toward nation-state capability, as aid conditionality was increasingly tied not only to economic reform but judgement of democratic political progress.⁸⁶ The 1982 debt crisis is pinpointed by Ridgeway and Jacques as enabling Reagan to discipline Third World nations, to weaken their power in the UN and in the economic agenda.⁸⁷ The dominance of this belief in the redistributive power of the unregulated market by the end of the 1980s is witnessed in the Washington Consensus. A contested term itself, this denotes a consensus across Washington-based institutions including USAID, the World Bank, and the IMF. The underlying prescription was that the state should relinquish power - except from the enforcement of law and order - to the rational forces of the market, on the belief that political and social problems would be resolved through this marriage of economic liberty and the rule of law, the assumption that globalisation is the pathway to peace and democracy.⁸⁸

The Reagan administration tied the political regime of a state to international insecurity, linking (negative, individual) rights to peace, where the promotion of (liberal) democratic governance combined an anticommunism with the defence of US - therefore universal - values. Away from the inclusive logics of modernisation, the analysis of the relationship between development and security, which is conceptualised as a nexus, has become a central problematic in policy and in thought across the many and varied institutions involved with humanitarian affairs including governments and NGOS, scholars, institutional institutions, and practitioners. Thinking on the development-security nexus proposes transnational threats such as disease, migration, war, terrorism, and other sources of disorder as exacerbated by underdevelopment, where development and security are

⁸⁶ Duffield, *Global Governance and the New Wars*, pp.28-30: Duffield also describes the fracturing of Third Worldism within the context of neoliberal developmental norms and the drive toward economic expansion.

⁸⁷ Sharon J. Ridgeway, Peter J. Jacques, *Power of the Talking Stick: Indigenous Politics and the World Ecological Crisis* (Oxon: Routledge, 2014) p.387; Amory Starr, *Naming the Enemy: Anti-Corporate Movements Confront Globalization* (London: Zed Books, 2000) Starr describes neoliberalism as a "political discourse/ideology that recommends deregulation, privatization, and the dismantling of the social contract" p.16

⁸⁸ Susanne Soederberg, 'American Empire and "Excluded States": The Millennium Challenge Account and the Shift to Preemptive Development" in *Third World Quarterly* Vol. 25 No. 2 (2004) pp.281-282

mutually reinforcing. The ubiquity of this relationship can be highlighted by the 2004 UN report 'A More Secure World: Our Shared Responsibility', as Kofi Annan argued:

"A more secure world is only possible if poor countries are given a real chance to develop. Extreme poverty and infectious diseases threaten many people directly, but they also provide a fertile breeding ground for other threats, including civil conflicts. Even people in rich countries will be more secure if their Governments help poor countries to defeat poverty and disease by meeting the Millennium Development Goals".⁸⁹

The interdependencies of globalisation are argued to have a dark side that must be managed, where the good circulations of capital must be maintained but the bad circulations of people, poverty, and violence must be contained. Instability and insecurity as being engendered in the South has construed underdevelopment itself as dangerous.

These failures, and the designation of underdevelopment, are taken to represent a fundamental lack, but one which can be remedied through tutelage of the correct behaviour, whether rooting out corruption, overseeing fair elections, or providing aid to ensure food security. The liberal regimes of development see their benefactors as lacking something, which presents obstacles to the attainment of 'successful' and 'legitimate' status, attained through correction, whither it is access to resources or the necessary expertise to govern. As Duffield has explained, development and the logics therein function as a moral trusteeship, and in the perpetuation of correct standards and behaviours, it is "a means of governing others".⁹⁰ The questioning of state capacity, completely stripped of political implications in the assessment of failure, introduces standards for the respect of sovereign norms, and the intertwining with security, introduced across the Clinton administration a militarised humanitarianism.

⁸⁹ Kofi Annan, 'A More Secure World: Our Shared Responsibility', *Report of the Secretary-General's High Level Panel on Threats, Challenges and Change* (New York: United Nations, 2004) p. viii

⁹⁰ Tschirhart, 'Mark Duffield on Human (In)Security' p.3

3.4 '(In)Dispensable Nation(s)'

"From Haiti in the Western Hemisphere to the remnants of Yugoslavia in Europe, from Somalia, Sudan, and Liberia in Africa to Cambodia in Southeast Asia, a disturbing new phenomenon is emerging: the failed nation-state, utterly incapable of sustaining itself as a member of the international community"

- Helman and Ratner, 'Saving Failed States' (1993)

"At the same time, our policy must face the reality of recalcitrant and outlaw states that not only choose to remain outside the family but also assault its basic values"

- Lake, 'Confronting Backlash States' (1994)

The inherent contradiction between the regime of international law and world order established in the UN Charter – prohibiting inter-state aggression in lieu of Security Council backing – and the universal framework of negative civil and political rights of the individual came to the fore with the abrupt dissolution of the counterbalance of superpowers. The struggle to contend with this paradox has been witnessed across the political and academic landscapes, with debates concerning the pervasive appeal of the democratic peace thesis, as well as confronting the increase in 'humanitarian crises'. The end of the Cold War precipitated the entrance of a moralised concern with a transnational scope in conceptions of global relations. The discourses of cosmopolitan peace as well as the universality of (specifically liberal) human rights informed a conception of the international informed by a decidedly liberal perspective. The euphoric, triumphalism of the pronouncement of the end of history following Soviet collapse, proclaiming liberal democracy as the final political ideology, was followed by increasing liberal interventionism throughout the 1990s in response to numerous humanitarian crises. The Clinton administration was tasked with the reconstruction of America's role in the changed international political landscape, while continuing to assert the 'indispensability' of US global leadership without the ideological rival. Freed from the veto-stalemate and constraints of proxy wars, the pursuit of 'international peace and security' by the UN and the US as sole superpower was no longer confined to sovereign state boundaries: domestic regime types became subject to evaluation in terms of the humanitarian threat said to be posed to cosmopolitan ideals and human security. The legitimisation of intervention became increasingly tied to the notion of humanitarianism, a moral responsibility of 'successful' nations to aid in the protection of the dignity, personal security, and existence of the peoples of vulnerable states.

While the logic of the liberal subject living in expansive peaceful cohabitation has deep historical roots, it is not until the 1990s that what Brad Evans describes as a 'global imaginary of threat' - correlating liberalism with peace and security - could be applied to the human as species. However, this moment of liberal expansion was not a Fukuyamian inevitability but, rather, intervention in local emergencies that threatened to spill outside of the bounded state and disrupt order elsewhere. Evans argues that the "modes of incorporation" adopted in the post-Cold War world were "justified on the grounds that while these were populations which still existed beyond the liberal pale, for their own

betterment they *should be included* - albeit in a fashion that was wholly conditional!"¹ The domestic structure of a state was considered correlative to the threat posed not only to their own population but also global stability: such a globalised threat could then render a regime as subject to correction. The concern for the consequences of leaving those outside of the liberal order unchecked, the figures of the presumed barbarians lurking at the borders of Europe and beyond have been mobilised in the justification of war for the possibility, even necessity, of an expanding, pacific cohabitation free from conflict. Such peace is deemed to be possible only through the extension of a liberal way of life (even if achieved through force). This global imaginary, taking species-life to be the referent object, entails a biopolitical security project, whereby the real threat to existence emanates from within its own ranks. It is the task of security agents to assess the emergence of future potential threats, to create a profile of who, where, and why some parts of the whole become subversive elements. Humanitarianism must also then be considered with reference to security strategies within which it is conceptualised and legitimised, as well as revelatory of what is considered to be *insecure* within humanity.

The end of the Cold War bore witness to this resurgence of a neo-Kantian pursuit of perpetual peace: in terms of the international, liberalism is associated with ever-expanding human rights and justice in an increasing remit of democracy and market capitalism. A central question is the persistent recourse to war in spite of discourses of perpetual liberal peace; life is continually used to justify military force. The waging of 'military operations other than war' across the decade, and the evocation of 'humanitarian warfare' (crystallised at the end of the century of the NATO action in Kosovo) blur the neat distinctions between the anarchic international and autonomous order of the domestic sphere. Foucault's inversion of Clausewitz's famous aphorism, that politics is in fact the continuation of war through other means, problematises the simple dichotomy of war as exception and the normality of civic peace. The referenced failure of the inter-state system at specific pressure points - those government that are 'unable' or 'unwilling' to cooperate - demands pacification to restore global order. As the War on Terror becomes a normalised security framework without a conceivable end in sight, interconnected practices – from war and military-operations-other-than-war, to extraordinary renditions and targeted drone strikes – promote particular conceptions of normal and safe modalities of life. However, this mode of control was institutionalised during the Clinton administration, as 'operations other than war' were waged on behalf of humanity, and a distinctly liberal lilt justified their claims to a 'neutral humanitarianism'. The articulation of the international by the Clinton administration posited the enlargement of the 'family' of democracies as the path to a global order: the internal rule reflecting external relations. The new enemy, replacing communist tyranny, of the procession to peace were therefore states presented as 'failed' or 'rogue' (initially referred to as outlaw or backlash), increasingly referencing a discourse whereby liberal norms and practices are the marker of sovereign ability and therefore

¹ Brad Evans, *Liberal Terror* (Cambridge: Polity Press, 2013) p.61

international security. In the wake of the Cold War, the triumphant heralding of a democratic wave, inevitable with the collapse of the totalitarianisms of the twentieth century captured the popular imagination, most famously depicted by Francis Fukuyama. While the wait for the progression of liberal expansion began to be regarded as untenable in the face of escalating crisis of the 1990s, particularly in the wake of the Rwandan genocide, the motif of success and the revival of a neo-Kantian cosmopolitanism with the success of *The End of History and the Last Man*, cannot be overlooked.

At the End of History

As the twentieth century entered its final decade the Soviet Union disintegrated, bringing the Cold War to an abrupt end. The self-perception and international considerations of the West had been defined against this absolute enemy since the conclusion of the Second World War and the sudden collapse launched a battle of ideas to reconstruct this identity for a new era. In the euphoric immediate aftermath, the neo-optimists and Universalists dominated the foreign policy and economic circles in proclaiming victory for the West and propagating the worldview that David Gress outlines as follows: "The West consisted of democracy and capitalism, or free markets; and that these practices, and therefore the West, were destined to be universal, all-powerful, and without rival as the organising principles of a new world order".² The most well-known exposition of the universalist viewpoint is a 1992 text by (then) neoconservative Francis Fukuyama *The End of History and the Last Man*, which presents the thesis that liberal democracy is the final stage in man's intellectual, social, and political evolution. His argument was constructed upon the abstract conceptions of German philosophical idealism and in particular the ideas of Immanuel Kant and Georg Hegel. Fukuyama was informed by a tradition which perceived history as the progression of mankind toward an endpoint in the realisation of liberty and peace.³ Kant was one of the first modern philosophers to undertake the task of writing a universal history in his essay *An Idea for a Universal History from a Cosmopolitan Point of View*. The end of history as conceived by Kant would bring human freedom under a civic constitution: the mechanism driving this development was termed man's 'asocial sociability', which Fukuyama argues "leads men to leave the war of all against all and join together in civil societies", avoiding conflict to ensure the capability to remain competitive in the international arena.⁴ The universal benefits would therefore overcome mankind's lust for domination and conflict.

The role of states in this progression was elucidated in Kant's text *Perpetual Peace* in which he proposes three definitive articles for the achievement of international harmony. These were prescriptions for achieving peaceful international relations. Firstly, the civil

² David Gress, *From Plato to NATO: The Idea of the West and Its Opponents* (New York: Free Press, 1998) p.466

³ Howard Williams, David Sullivan, E. Gwynn Matthews, *Francis Fukuyama and the End of History* (Cardiff: University of Wales Press, 1997) p.2

⁴ Francis Fukuyama, *The End of History and the Last Man* (London: Penguin Group, 2012) p.58

constitution of all states should be republican; second, there should be established a federation of free states governed by an agreed constitution who can "thus secure freedom under the idea of the law of nations"; finally, there should be cosmopolitan law of universal hospitality engendering a "world citizenship".⁵ He envisioned the universal principles of republicanism – liberal democracy – gradually spreading across the globe resulting in peace and the utmost in individual freedom. Kant's model of a pacific federation provides the basis for democratic peace theory. The proponents of this theory believe that the fact war has never broken out between liberal democratic states, while hostility remains within and between their non-liberal counterparts, proves the validity of the Kantian interpretation. It is posited that it is only through the combined implementation of all three articles - constitutional, international, and cosmopolitan - that liberal peace has been sustained, and is in fact growing.⁶ With the end of the geopolitical stalemate manifest in the Cold War the possibility of a gradual transition to a perpetual peace appeared anew. However, while Kant began the pursuit for a universal history, it would be the work of his successor, Hegel, to which Fukuyama would feel more deeply indebted.

The Hegelian conception of history as progress toward a specific endpoint was overtly philosophical. He understood history to be constructed according to the development of *Geist*, translated as Spirit, proposing that "History is a conscious, self-mediating process – Spirit emptied out into time".⁷ The perceived nature and dominant intellectual currents of a particular moment in history are therefore a product of the contemporary Spirit. The philosophy of a period is limited by the Spirit and these restrictions cannot be overcome until progression allows for a fundamental change in the prevailing worldview. There have been diverging interpretations of Hegel's concept of the Spirit, understanding it to be the influence of God or conversely a secularised, shared consciousness, or a combination of the two. Regardless, central to Hegel's philosophy of history was the notion that the progression of History was dependent upon the progression of the Spirit.⁸ This provided the explanation for what he understood to be the momentum for change in the way human societies organised themselves – as the Spirit surpassed the capabilities of the current system, this was ultimately overthrown and replaced with another which reflected the development. Fukuyama explained this chaotic process which Hegel termed the 'cunning of reason': "History proceeds through a continual process of conflict, wherein systems of thought as well as political systems collide and fall apart from their own internal contradictions. They are then replaced by less contradictory and therefore higher ones which give rise to new and different contradictions – the so-called dialectic".⁹ All states were therefore subject to this universal, inexorable progression toward the end of history, where there would be no

⁵ Immanuel Kant, *Perpetual Peace: A Philosophical Sketch*, 1795

<<https://www.mtholyoke.edu/acad/intrel/kant/kant1.htm>> [accessed 30/04/2013] Section II

⁶ For an explanation of this theory see: Michael W. Doyle, 'Democratic Peace' in *Security Studies: A Reader* (ed.) Hughes, Meng (Oxon: Routledge, 2011) pp.165-170

⁷ G.W.F. Hegel, *The Phenomenology of Spirit*, quoted in Williams, Sullivan, Matthews, *Francis Fukuyama* p.25

⁸ Williams, Sullivan, Matthews, *Francis Fukuyama* p.27

⁹ Fukuyama, *The End of History* p.60

fundamental internal contradictions necessitating further change. This conception of the dialectic which dooms flawed societies to an inevitable replacement was central to Fukuyama's understanding of the political realities facing the post-Cold War world.

The argument presented in *The End of History and the Last Man* fused Hegel's dialectical conception of History with the Kantian eventuality of perpetual peace. Fukuyama reinstated the optimistic belief in progress which had been lost with the rise of the numerous totalitarianisms of the twentieth century, arguing that liberal democracy comprised the end of History. His thesis asserted that the collapse of the Soviet Union was unavoidable due to the insurmountable political, ideological, and economic contradictions resulting in a crisis of legitimacy. He diagnosed these weaknesses in all manifestations of the supposedly strong states of authoritarianism and totalitarianism, presenting this as proof of the coherent narrative of history as the gradual dominance of the universal values of liberal democracy.¹⁰ In positing the liberal democratic state as the end of history, Fukuyama claims this to be the final political ideology, negating the possibility of any rival. Above all, this is an "intellectual success"; while the achievement of a universal post-historical world of peace and freedom had not yet been actualised, the principles of liberal democracy could not be surpassed.¹¹ This optimism informed the Clinton administration's response to the task of articulating a new foreign policy for the post-Cold War world.

Charting the New World Order: Security Beyond Wooly-Haired Idealism

The issue of foreign policy did not form the core issue of the first post-Cold War presidential campaign; nonetheless, the democratic candidate Clinton was tasked with elaborating a new vision, that did not play into republican criticism that he was a dove, or worse, inexperienced. As famously quipped by Republican nominee Pat Buchanan, "Bill Clinton's foreign policy experience is pretty much confined to having had breakfast once at the International House of Pancakes".¹² Elaborating a new vision had to be thorough, presenting a tough stance but one that would capitalise on the democratic tide, while critiquing the stagnation and status quo of the preceding Bush administration. Anthony Lake, who would become National Security Advisor and a key figure (*a la* Kissinger) in the articulation of the foreign policy issues and solutions to be pursued by the Clinton administration - and as noted, having cropped up in the Carter era foreign policy circles - was one of Clinton's central advisors on foreign affairs throughout the campaign. Clinton gave four speeches on the trail that were focused upon his internationalist vision, which was consistently presented as a mixture of idealism with pragmatism within a long democratic trajectory. The global promotion of democracy, with the indispensable role of the US

¹⁰ David Gress, *From Plato to NATO* pp.468-469

¹¹ Williams, Sullivan, Matthews, *Francis Fukuyama* p.76

¹² Thomas L. Friedman, 'The 1992 CAMPAIGN -- Issues: Foreign Policy - Looking Abroad: Clinton and Foreign Policy/A special report.; Clinton's Foreign-Policy Agenda Reaches Across Broad Spectrum' in *The New York Times* (4 October 1992)

therein, was placed front and centre, while stressing that this was to be concentrated on those regional areas that were already on the journey. Lake collated the responses of various academics and experts in democracy and foreign affairs who gave their opinions upon what the candidate Clinton should highlight in an address referred to as his 'Democracy Speech', the articulation of his foreign policy vision and the centrality of democracy therein. There were common themes that occurred throughout the notes, drafts, and opinion pieces. The critique of Bush proposed was to attack his lack of innovation, despite the rhetorical 'New World Order', and the ultimate appeasement of dictators such as Saddam Hussein - business as usual, balance-of-power, Cold War tactics that were no longer necessary or appropriate. Stressing the need to capitalise on this moment of democratic expansion, Thomas Carothers (a noted expert on democratisation and currently the vice president of the Carnegie Endowment for International Peace) recognised the need for nuance in dealing with regional specificities and timelines in their progression toward democracy.¹³ Simon Schlesinger tied Clinton's approach of "Global democracy based on collective security" to a democratic presidential lineage of internationalism from Wilson to FDR, Truman, JFK, LBJ, and Carter, as recognising both a uni- and multilateral role for the US in the pursuit of democratisation.¹⁴

In a note to Will Marshall - the president and founder of the Progressive Policy Institute heralded as Clinton's "idea's mill" and proponent of 'Third Way' politics - from Samuel Huntington, Huntington makes clear the necessity of treading a careful line in foreign policy rhetoric. While opening with the admission that democracy promotion had to be at the centre of the US strategic vision, Huntington warned of the danger that Bush could portray Clinton as a "woolly-haired idealist intent on butting into the affairs of other countries all over the world" and a "soft, weak-kneed, liberal do-gooder".¹⁵ He stressed that democracy had to be explicitly tied to the national security interest, and should be focused upon pragmatic cases such as Russia and China. The weakness in the Bush campaign's foreign policy rhetoric was identified as the failure to adjust to a new security landscape, and Huntington elaborated upon the interdependence between the economic, political, and military elements of an effective post-Cold War strategy: the military threat had subsided and was no longer the primary means of defence, the spread of democratic governance and market economies would enable a lower military force through an extending zone of peace while stimulating domestic economic renewal through expanding trade and investment in new markets. Ultimately, the threat to US interests would come from dictators and not from democracies, with Huntington also referring to a 'historical record' of the US standing up for

¹³ Correspondence, Thomas Carothers to Anthony Lake, 'Promoting Democracy Abroad' (January 1992) in Folder 11 'campaign file democracy speech 1992 Jan-June' in Collection 'Anthony Lake', in Box 11, LOC Man, Washington DC.

¹⁴ Correspondence Simon Schlesinger to Will Marshall, 'Notes on Democracy Draft' (15 June 1992) in Folder 11 'campaign file democracy speech 1992 Jan-June' in Collection 'Anthony Lake', in Box 11, LOC Man, Washington DC.

¹⁵ Correspondence, Samuel Huntington to Will Marshall, 'Notes on a Speech on Democratization as a Goal of U.S. Foreign Policy' (16 June 1992) in Folder 11 'campaign file democracy speech 1992 Jun-June' in Collection 'Anthony Lake' in Box 11 LOC Man, Washington DC.

their founding ideals of liberty and equality, and the anachronistic cold war association with authoritarian regimes had to be shelved.¹⁶ It would be remiss to mention Huntington in the 1990s without referring to the controversial thesis which served as a response to Fukuyama's end of history, the 1997 text (developed from a 1993 article) *The Clash of Civilizations and the Remaking of the World Order*. Huntington posits an alternative vision of post-Cold War international relations from a gradually engulfing democratic peace, instead arguing that the world was entering a new phase of conflict, that would be dominated by 'culture' - cultural identity being theorised as corresponding broadly with 'civilisational' identities. The supposed dominance of Western notion of individualism, liberalism, and human rights would indeed only stoke the historic tensions that existed across ethnic and religious constructions of the self and Other: interaction between the 'civilisations' would be dictated by the closeness of their "culture", with Huntington posing the "fault lines" between the Western and Islamic 'civilisations' as particularly prone to conflict.¹⁷ The 'new barbarism' thesis which found an academic voice in the 1990s through the work of Huntington, Kaplan (which will be discussed below), and Goldberg, perpetuated "racial discourse and xenophobic tendencies in the West", and articulated an isolationist angst; while in no way the dominant lens of the global liberal discourse of development, Duffield notes that despite the distinction drawn by developmentalists from themselves and the racial overtones of 'new barbarism, there are many shared assumptions of cultural-relativism.¹⁸ As the US entered the War on Terror, and in the wake of almost any major terrorist attack in the West, a flurry of media articles and think pieces propose the question of the 'Clash of Civilisations' whether to confirm or quash the notion: the spectre of a clash between Islam and the West stoked by language of crusade and jihad.

The recurrent theme of the possibility of marrying democracy with Islamic governance - which would one year later be thrust into a controversial limelight with the publication of Huntington's 'Clash of Civilisations' article and would later fuel rampant Islamophobia in the War on Terror - appears in handwritten notes to a September 28th draft of the address that was delivered in Milwaukee on October 1st. On a passage critiquing the Bush treatment of the Israel conflict with the Arab States, Lake penned a note referring to the role of the US in the Middle East and the need to recognise the relationship between Islam and democracy: "Islam is not inherently or necessarily inconsistent with democracy. It is the responsibility of the American president to promote accountable government and human rights in the vital part of the world that is predominantly Muslim. Turkey and Bangladesh are on the road to building democracies in Islamic societies and we should be looking for more such opportunities, rather than settling for more Irans".¹⁹

¹⁶ 'Notes on a Speech on Democratization as a Goal of U.S. Foreign Policy'

¹⁷ Samuel Huntington, *Clash of Civilizations and the Remaking of the World Order* (New York: Touchstone, 1997) and Huntington, 'The Clash of Civilizations?' in *Foreign Affairs*, Vol. 72 No. 3 (Summer, 1993) pp.22-49

¹⁸ Duffield, *Global Governance and the New Wars* pp.113-117

¹⁹ Handwritten Note on 'Remarks By Brian J. Atwood - Naval Academy Foreign Affairs Conference (13 April 1992) in Folder 11 'campaign file democracy speech 1992 Jan-June' in Collection 'Anthony Lake', in Box 11, LOC Man, Washington DC.

In this reading, democracy is the antidote to strained relations. The question of the inclusion of Islamic societies in this moment is integral: the narrative of a universal expansion of fundamental rights and freedoms as the birthright of humanity, to suggest the exclusion of Islamic governance would be to exclude Muslims from humanity.

As noted in reference to the development of the Human Security discourse, the security-scape presented in the post-Cold War context was directed toward intra-state violence and turmoil, said to be fomented by ethnic tensions, where the breakdown of societies threatened to cause disorder beyond the nation-state borders. The 'new war' thesis therefore ultimately placed the failure of the state to maintain order at the centre of analysis, and at the centre of foreign policy planning. The 1990s as the era of the 'emerging norm of humanitarian intervention' is in direct conflict with the existing norm of non-intervention (as secured in the Charter), but crucially, this only applies in certain spaces - some sovereignties are rendered contingent. These sites were the rogue and failed states pinpointed by the US as sources of instability and insecurity, as the 'enemies' subject to the intervention of boots (on the ground) and bombs.

Without explicit reference to failure or roguery, President Clinton voiced the intention, and resolve, in an address to the UN General Assembly in 1993 to act in support of what were deemed to be 'core interests' to the US or its allies: if possible, multilaterally but, if necessary, unilaterally. While referring to dangers that would later be expressed in the language of sovereign failure, Clinton repeatedly links the spread of market democracy to international peace and security and highlights the key areas to be addressed as the non-proliferation of WMD, inter- and intra-state conflict resolution, and sustainable development. Derrida has highlighted this point as the introduction of the logic of retaliation and exception in the US stance toward what it regards as rogue states, i.e. those outside of the democratic family said to be attacking the, somewhat vague, notion of 'vital interests'.²⁰ The term exception implies a distinct division between the normality of rule of law and the necessary aberration of emergency powers when, as Neocleous argues, "far from being outside the rule of law, emergency powers emerge from it. They are part and parcel of the political technology of security and thus central to political administration". Legitimised through law in terms of necessity and security, emergency powers are used to enact the violent excess in maintaining internal order and the Western dominated international landscape.²¹ While the obsession with the exception is often associated with the post-9/11 world, to (re)produce such conceptions would be to consolidate the power/knowledge legitimising the practices that continue today. Reserving the ability to enact exceptional means in the name of necessity is not a new phenomenon, and emergency powers are in fact conceived as part of liberal-democratic constitution, which have been mirrored at the international level. The language of the exception took on

²⁰ See William Clinton, 'Remarks to the 48th Session of the United Nations General Assembly' New York (27th September 1993); Jacques Derrida, *Rogues: Two Essays on Reason* (Stanford: Stanford University Press, 2005) pp. 103-104

²¹ Neocleous, *Critique of Security* pp. 70-72

territorial conventions in the nation-state centric conception of the international, with that of the failed and rogue states. These spaces were conceived of as an aberration, or a threat, to the existing order, and in response to which the US must act to secure peaceful relations through the exceptional practice of intervention, albeit by employing the juridical logic of international law and the moral discourse of humanitarianism. The discursive construction of these concepts at both the academic and policy level has been marked by definitional ambiguity and contestation. The US has been central in the construction and proliferation of both terms, simultaneously stressing its own leadership as well as the larger responsibility of the liberal democratic community to uphold order and stability, therefore security.

However, it would perhaps be wise to begin with an investigation of the 'successful' state against which any aberrations are held in comparison.

(Liberal) Democratic Peace: Engagement and Enlargement

Freedom's crusade under the Reagan administration was explicitly linked to democratic governance, as an active rollback of the communist threat - with the infamous 'Kirkpatrick Doctrine' even going so far as to differentiate and to hierarchise the threat to freedom from 'traditional' and 'revolutionary', totalitarian (read: communist) autocracies.²² The democracy promotion heralded by the Reagan administration weaponised freedom, as a fundamentally American attribute, whereby those Other - the Soviets - would lose in a battle of ideas over the attainment of the 'good life'. While his dealings with authoritarian regimes accompanied by the excuse of acting in American interest even when in complete disregard for human rights abuses, seem to compromise such a chaste view of US freedom. The Clinton administration's embrace of an active policy of democracy promotion, institutionalised an equation of democratic regimes with the upholding of human rights - that is, liberal (market) democracies that guarantee civil and political rights. Thus, the paradoxical relation of the universal subject of rights afforded through humanity, which must be assured by (democratic) citizenship, ultimately reinforces the commitment to the nation-state international structure. Seemingly, it is only through the proliferation of particular state forms that one can be free of the restrictions of the state to act without political intimidation or unlawful imprisonment (with no regard of the restrictions through other formulations of rights and not to mention the abuses of power and restriction of rights that can be lawfully justified in democratic states). The combination of these two foreign policy goals, the promotion of both human rights and democracy - is evidenced in the 1994 reorganisation of the Bureau of Human Rights and Humanitarian Affairs - established under Carter - to the Bureau of Democracy, Human Rights, and Labor. Thus, the foreign policy aims of promoting democracy, human rights, and workers' rights globally are envisioned as inextricably intertwined and institutionally falling within the same department.

²² Morton Halperin, 'Democracy and Human Rights an Argument for Convergence' in *Realizing Human Rights: Moving from Inspiration to Impact* (ed.) Power, Allison (New York: St. Martin's Press, 2000) p.254

As is a central claim of this thesis, any reference to 'human rights' embodies a complex discursive formation, that is both historically and geographically contingent. Similarly, the presentation of 'democracy' as a singular, unified, and universal regime effaces the multiple, conflicting histories of this concept, by reference to a very specific form - liberal democracy. The pervasive doctrine of the Democratic Peace, which postulates the lack of conflict between democracies as evidence of their fundamentally pacific nature, presents a dichotomous worldview where industrialised, democratic, free, and developed nations are pitted against the underdeveloped, undemocratic, and unfree. This ahistorical perspective naturalises the emergence of wealth and 'freedom' in particular localities, without considering the past and present processes of exploitation and accumulation upon which this was founded and sustained. In his 1994 State of the Union Address, Clinton gave presidential backing to the thesis, declaring that "ultimately, the best strategy to ensure our security and build a durable peace is to support the advance of democracy elsewhere. Democracies don't attack each other".²³ The promotion of democracy abroad was thrust to the centre of the US national security strategy, in the belief that democracies assurance of individual liberty and the free movement of capital translated into peace. Within the new post-Cold War grand strategy of Engagement and Enlargement, the promotion of democracy is tied to the extension of the economy and national security. By placing the domestic regime type at the centre of security policy, this set the stage for militaristic interventions abroad. Taking the helm at a time of great uncertainty, the best-selling grand theories of both Fukuyama and Huntington's Clash of Civilizations were rejected by the Clinton administration, as the necessity to grab the initiative was stressed rather than resting upon laurels to await a fate already written. In a 1993 speech at John Hopkins, Anthony Lake outlined the four pillars of the "emerging strategy of enlargement": "First, America's core concepts, democracy and market economies, are more broadly accepted than ever before. We have arrived at neither the end of history nor a clash of civilizations, but a moment of immense democratic and entrepreneurial opportunity, and we must not waste it".²⁴ While embracing the optimism regarding the triumph of liberal democracy, the spread had to be actively encouraged. Later in the speech, Lake prescribes a course of democracy and market economies to treat areas of "humanitarian concern". The present moment was presented by Lake as witnessing the ascendance of democracy and capital, with the US as the sole superpower; however, this growth was accompanied by a rise in the frequency of ethnic conflicts demanding humanitarian action, as well as an ever-expanding flow of instantaneous information upon an endless number of events.

Democracy promotion as the linchpin of Clinton's foreign policy was also evident in the 1994 'A National Security Strategy of Engagement and Enlargement'. The strategy stressed the diverse threatscape facing the liberal democratic hegemon, particularly referring to the interdependence between domestic and foreign policy. In order to address this blurred

²³ William Clinton, 'State of the Union Address', Washington DC (25 January 1994)

²⁴ Anthony Lake, 'From Containment to Enlargement', John Hopkins University School of Advanced International Studies, Washington DC (21 September 1993)

boundary, three central strategic goals were presented as mutually supporting premises for international security: "To credibly sustain our security with military forces that are ready to fight; to bolster America's economic revitalization; to promote democracy abroad".²⁵ Any progress toward one of these aims, was understood to be a positive step toward the others, as democracies embraced trade and security, secure states are more likely to embrace trade and democracy, and states with a flourishing economy would pursue security and the extension of (individual) freedoms. These three pillars provide an ontology of liberal democracy as cosmopolitan pathway, the backbone of a (re)constructed (inter)national security. The logic of inclusion is founded upon a biopolitical exclusion, which is dependent upon the depoliticisation of alternative ways of life. Freedom is tied specifically to an overarching framework of security through an unproblematised notion of democracy and market capitalism. In the regulation of the amorphous mass of species life, there must be a break in the continuum of humanity wherein to enact the excess violence ensuring the promotion of healthy, good, liberal, global life. The terms 'engagement' and 'enlargement' evoke an active policy, as well as connoting growth, in a positive meeting for progress.

The engagement of the community of democratic states was argued to serve every strategic interest of the US; however, the approach outlined in the strategy highlighted American interests: "This is not a democratic crusade; it is a pragmatic commitment to see freedom take hold where that will help us most".²⁶ The effort would therefore be focused upon those regions most susceptible to the expansion of democracy - with particular reference to Russia, central and eastern Europe, and the Asian Pacific - and upon aiding those already engaged in national struggles toward democratic freedoms. The strategy focused upon the fostering of respect for human rights norms, the mobilisation of international resources, taking public positions, integration into foreign markets (using the example of NAFTA), and the strengthening of civil society, financial institutions, and good governance.²⁷ Analysing the securitisation of democracy promotion under the Clinton administration, Sondergaard posits the linking of democracy and security in the discourse of 'democratic enlargement' as legitimising the use of force for humanitarian ends. This rationalised the more militaristic foreign policy of both Clinton and Tony Blair, in a discourse that combined elements of Wilsonian internationalism - the call to make "the world safe for democracy" - with the academic discourse of Democratic Peace Theory, thus adding a rationalism and scientific edge to a liberal/idealist foreign policy.²⁸ The intertwining of democracy with the project of (inter)national security had important implications for the norms of non-intervention and autonomy in state sovereignty. In a world free of the imminent possibility of nuclear war precariously staved off by balance-of-power politics, the redefinition envisioned the gradual, universal spread of democracy as possible, but only

²⁵ William Clinton, *A National Security Strategy of Engagement and Enlargement* (Washington DC: White House, 1994)

²⁶ Clinton, NSS 1994

²⁷ Clinton, NSS 1994

²⁸ Rasmus Sinding Søndergaard, 'Bill Clinton's "Democratic Enlargement" and the Securitisation of Democracy Promotion' in *Diplomacy and Statecraft* Vol. 26 No. 3 (2015) pp.534-551

when vigorously defended and encouraged in the face of new dangers posed by the spill-over effects of ethnic violence and terrorism, and the disintegrating states that shielded them - the 'dark side of globalisation'.

The expansion of transnational ties has often been characterised in academia and policy as weakening the supremacy of the nation as the purveyor of power, by stressing the global reach of capital and international institutions of governance: however, this transnationality has not transcended the state, but rather ushered an international arena that is amenable to the influence of state power (for particular states), a relationship which has precedents in colonialism. In the immediate post-cold war context, the academic landscape of IR - largely informed by an Anglo-American tradition - reinforced this ahistorical reading of democracy (as liberal). Interrogating the democratic 'zones of peace', and re-inserting processes of globalisation, Barkawi and Laffey attempt to insert a historical perspective, by reminding us that the founding notion of democracy as 'direct rule of the people' was an idea reviled by elites. The class context of the emergence of a 'defanged', *liberal* democracy has been overlooked in much IR scholarship - particularly in discussions of the democratic peace.²⁹ Struggles over the meaning of democracy, as well as the processes of urbanisation and industrialisation, have contributed to the triumph of the liberal articulation, where the limitations upon political participation and the curbing of the radical potential of people's rule were in the interests of the emergent bourgeois class. An unproblematised use of democracy, read as market democracy, ties a specific political process of expanding suffrage with an expanding pool of civil and political rights to liberalism. These refer to the rights of the individual and to private property, thus limiting further articulations of rights or organisations of 'rule by the people'. Indeed, the association of liberal democracy with peace, is a discourse of the status quo, and further, associates this governance with order and security, which serves to mark alternatives as disordering and dangerous. In categorising the behaviours of states in the international system, the implications of the term 'status quo state' that exists in some readings of IR is revelatory of an implicit assumption that these powers conserve order, and therefore do not pose a threat. As Hoyt has argued, "diplomatic isolation, economic embargoes, attempted subversion and military conflict are common elements in the competence strategies of status quo states", and this behaviour is perceived by many in the 'Third World', including rogue state leaders, as "acts of a state intent on imperial control".³⁰ The question posed in policy-making circles as well as in traditional IR approaches is 'why do rogue states refuse to comply to international standards', which assume a completely non-threatening international environment, where any noncompliance is irrational. By the construction of the (neo)Kantian-republican zones of perpetual peace, a distinction is therefore reinforced between the liberal and non-liberal worlds - with gradations of the latter in terms of who can *become* liberal and through what

²⁹ Tarak Barkawi and Mark Laffey, 'The Imperial Peace: Democracy, Force, and Globalization' in *European Journal of International Relations* Vol. 5 No. 4 (1999) pp. 407-409

³⁰ Paul D. Hoyt, "'Rogue States' and International Relations Theory' in *Journal of Conflict Studies* Vol. 20 No. 2 (2000)

means. This process of becoming, and the exclusions therein, particularly with reference to the *Clash of Civilisations* and the possibility of un-assimilable peoples, was up for debate.

Democratic governance was also presented as inherently entailing a greater respect for human rights, and with this proliferation of freedoms, again, all of the integral US security interests would be satisfied. Secretary of State Christopher at the 1993 World Conference on Human Rights situated America at the forefront of the extension of rights in their historical trajectory, both with respect to the nation's founding in declarations of equality as well as in relations internationally. Within the immediate post-Cold War context, civil and political individual rights from oppressive (communist) regimes were celebrated and democracy posited as the only regime form that would ensure the protection of these rights. Democracy is posited as not only bringing about but actually in guaranteeing human rights and is therefore at the forefront of global security; the promotion of democratic institutions are heralded as the "moral and strategic imperative for the 1990s".³¹ Democracy is then the freest, and fundamentally safest, form of government, happily marrying interests with values. The establishment of an inextricable link between democratic governance and the provision of human rights was institutionalised in the Clinton administration, with a concerted effort to streamline what were previously disparate offices of government. These were also being more systematically organised with the national security framework, gaining coordination in the National Security Council (NSC). At the beginning of his tenure, Clinton introduced the office of Democracy, Human Rights and Humanitarian Affairs into the NSC, and further additions reveal the priorities of the administration, their discursive framing, and the envisioned strategy, with the addition of new staff units in areas of Global Issues and Multilateral Affairs, and from 2000 dealing with Transnational Threats.³² The issue of human rights figured prominently in the institutionalised bureaucracy of the Clinton administration, by being intertwined with a plethora of other notions and security threats including democracy promotion, counterterrorism, and transnational crime.

By addressing 'democracy' and 'human rights' in security terms, the policy of engagement and enlargement was framed as a security measure, legitimising and indeed necessitating militarised intervention in the name of furthering democracy (as the only governance capable of realising human rights and fundamental freedoms). The issue of 'Interagency Coordination of Humanitarian Issues' was discussed in June of 1997 at the 'foreign policy working lunches' that were held regularly between the Secretary of State, Secretary of Defense, and the National Security Advisor. The problem was framed as the waste of resources through diffuse organisation with over \$2 billion spent annually on humanitarian and refugee operations, involving 'no less than seven agencies' - including AID, State, Defense, Health and Human Services, Coast Guard, Justice, and CIA - "there is no

³¹ Warren Christopher, 'Address at the World Conference on Human Rights' (14 June 1993) in *U.S. Dep't of State, Dispatch 441* (1993)

³² John P. Burke, 'The National Security Advisor and his Staff' in *The White House Transition Project Smoothing the Peaceful Transmission of Democratic Power*, Rice University's Baker Institute for Public Policy, Report 2017-24

formal mechanism for coordination, and, as a result, policy suffers badly".³³ The centrality of the NSC as coordination point is posited as the only possible middle ground acceptable for each agency. Eric Schwartz, a notable fixture of Clinton's human rights and UN framework as well as former Senior Director and Special Assistant to the President for Multilateral and Humanitarian Affairs at the NSC, has noted in his analysis of Human Rights institutionalisation, that the importance placed upon an issue can be considered through its consideration within the NSC framework. From the standpoint of his own personal experience, Schwartz notes the significance of NSC inclusion as officials working broadly under the offices of human rights can gain a direct audience with the president through security channels, as opposed to being tied to the laborious process of compromise and tit-for-tat across agency floors in the hope of presenting a decision memorandum to the President.³⁴

The 'Office for Democracy' within the NSC, established by the Clinton administration in 1993 was headed by Morton Halperin: in an essay contribution to a book edited by famed humanitarian intervention enthusiast Samantha Power, Halperin argued for the convergence of both human rights advocacy and democracy promotion. He characterises the disparate development of both movements, stressing the Cold War ideological founding of democracy promotion and the focus upon the individual of human rights activists. While recognising concessions that would have to be recognised by both sides, Halperin stresses that both movements could, and should, unify over the goal of establishing the legal framework to human rights, *de jure* rights for every individual internationally which would be brought about by the establishment of constitutional democracies, a development that would, he argues, address the shortcomings of both approaches. Without a doubt heralding the global spread of democracy as the best - or possibly only - hope of a truly universal human rights, Halperin also chides what he regards as the human rights movements dangerous focus upon US rights transgressions, double standards, and irreverence, making the assertion that there should be an overarching recognition that the "degree and type of human rights abuse in any U.S. State is nowhere near as egregious as in Kosovo, China, and Saudi Arabia".³⁵ Not only does this refuse to engage with any claims that could be raised by US citizens - of either negative or positive rights abuses - with hindsight, this is a strange choice of contra's, given the 'Special Relationship' that is enjoyed with the Saudi Arabian regime, whereby it remains one of the largest arms customers of both the US and UK, as well as the perhaps less obvious criticisms regarding the NATO bombing in Kosovo from high altitude - to be discussed later. This guarantee of rights appears not to extend to US relations with particular countries in its own interest, nor the nature of the humanitarian

³³ 'Item-Interagency Co-ordination of Humanitarian Affairs' in Folder, Clinton presidential records NSC NS advisor Steinberg 96-97 (5) OA/ID 1475, Box, 2014-1064-F Open Box 3 of 3: Clinton presidential records NSC NS advisor Steinberg 96-97 (3): OA/ID 1475 to National Security Council NSC Records Management System (Christopher and Lunch...) 0003255 OA/ID 4090, William J. Clinton Presidential Library, Little Rock, Arkansas.

³⁴ Eric Schwartz, 'Building Human Rights into the Government Infrastructure' in *The Future of Human Rights: U.S. Policy for a New Era* (ed.) Schulz (Philadelphia: University of Pennsylvania Press, 2008)

³⁵ Halperin, 'Democracy and Human Rights'

action that is pursued, which reveal a hierarchisation in valuation of human life. Is this the best argument for democracy promotion as an emancipatory project: at least it is better than genocide or the wholesale exclusion of women from public life?

Writing/Righting Rogues

Regarding the at times disparate foreign policy approaches to different countries, and specifically answering a question on trade with China and Cuba, Albright retorted that "we do not have a cookie-cutter approach to policy".³⁶ The rogue state label then provided a lens for policy-making, a frame of reference. While each rogue could elicit a specific response from the US, over the course of the 1990s, a common set of behaviours associated a diverse set of actors with an overarching threat of US security, drawing upon many of the signifiers of Reagan's 'outlaw'. This series of assumptions about deviant regimes has constituted a new overarching security narrative that became widely shared among US defence policymakers in the aftermath of the Cold War, and which has enabled a diverse range of US adversaries to be discursively represented as posing a common threat to US national security interests. The adoption of the concept of 'rogue state' by the US foreign policy elite is often attributed to the Clinton administration; however, as argued by Litwak (and discussed in the previous chapter), the Reagan Presidency introduced the label of 'outlaw states', and rhetorically tied these regimes to the threat of terrorism.³⁷ The tendency within American political culture to dichotomise actors according to an evaluation of their values, in a Manichean struggle between Good and Evil is evident in the writing of the rogue, the construction of an 'outlaw' whose behaviour sets them apart from the civilised international community, which must be righted by the US. Such a discourse can be located in the national myths of American exceptionalism, as the taming of the boorish peoples and the wild environment. From the uncertainty of the post-Cold War security landscape, the figure of the rogue tied up diffuse and seemingly disparate regimes as sharing a dangerous rejection of liberal (and specifically US) hegemony, in order to construct a general framework of a defence policy.

Lake's 1993 speech 'From Containment to Enlargement' and the article 'Confronting Backlash States' published the following year in *Foreign Affairs* laid out the fundamental tenets of the US international role, and stance toward what would become known as 'rogue' states. Following the publication of this article, the term gained widespread currency, as an umbrella term that was able to encompass a plethora of security issues. In fact, Lake's

³⁶ Michael Dobbs, 'With Albright, Clinton Accepts New U.S. Role' in *The Washington Post* (8 December 1996) <<https://www.washingtonpost.com/wp-srv/politics/govt/stories/albright120896.htm?noredirect=on>>'

³⁷ See: Alexandra Homolai, 'Rebels without a Conscience: The Evolution of the Rogue States Narrative in US Security Policy' in *European Journal of International Relations* Vol. 17 No. 4 (2011) pp.705-727; Paul D. Hoyt 'The "Rogue State" Image in American Foreign Policy' in *Global Society* Vol. 14 No. 2 (2000) pp.297-310; and Robert Litwak, *Rogue States and U.S. Foreign Policy: Containment after the Cold War* (Washington DC; The Woodrow Wilson Center Press, 2000)

robust articulation of these spaces of disorder, creating a conceptual framework through which to understand 'rogueish' behaviour, was in direct response to popular uncertainty and ambiguity that surrounded the 'Dual Containment' policy of Iraq and Iran - key rogue states - as it had been presented by Martin Indyk, the Senior director for Near East and South Asian Affairs at the NSC, the architect of the policy. Indyk stressed the novelty of this policy, as a rejection of the old balance-of-power, tit-for-tat logic that had characterised US relations in this key region in previous decades. Both regimes had enjoyed a period of being in the US payroll, as a means to stave off the ascendancy of the other. This new tack produced considerable confusion in terms of the nuances of containing both powers, and further, created tension between the NSC and State Dept. Lake's intervention elaborated a more general framework, which recognised overarching characteristics to define a backlash/rogue actor while recognising the differences required in the US approach to each.³⁸

Cuba, North Korea, Iran, Iraq, and Libya were identified by Lake as those states purposefully positioning themselves outside of the global movement of liberalism, and this defiance was described as an "assault" upon the "basic values" of the "family" of nations that are "committed to the pursuit of democratic institutions, the expansion of free markets, the peaceful settlement of conflict and the promotion of collective security".³⁹ Thus, their rejection of this supposed collective progression toward peace, security, prosperity, and freedom is itself an aggressive stance. Lake describes these states as authoritarian regimes which are ruled by cliques with specific and egotistical interests guiding their domestic and foreign policy, their rule is secured by coercion with no respect - in fact rather, a disregard - for human rights norms. The security of their rule is sought through military development programmes in WMD to address precarity at home and abroad, and they are more likely to sponsor terrorism, exhibiting a "chronic inability to engage constructively with the outside world".⁴⁰ Pathologising their disconnect with norms of the international, the rogue discourse primarily addresses the external behaviour of the state as potentially threatening to the US and the world. However, the link that is established between the domestic character of the state and the tendency toward irrational and unsettling foreign behaviour is clear. The unknown threat of an irrational actor is an important factor within the security strategies addressing rogues. Rationality is associated with democratic governance and entrance into the market economy, which are necessary steps to becoming a functioning member of the family of nations, respecting human rights norms at home and abroad. Indeed, the term 'market democracy', tying a fiscally liberal economics to democracy, was telling as a rhetorical trope used throughout the Clinton presidency. These 'Third World', or 'developing' nations have been characterised as the greatest threat to peace and stability, in their rejection of development. The conceptual matrix of a trifecta of threats - rejection of human rights, accumulation of WMD, and

³⁸ Litwak, *Rogue States* pp.59-60

³⁹ Anthony Lake, 'Confronting Backlash States' in *Foreign Affairs* Vol. 73 No. 2 (March-April 1994) p.45

⁴⁰ Lake, 'Confronting Backlash States' pp.45-46

sponsoring of terrorism - became subsumed under the single notion of 'rogue states', tying an irrational domestic policy to a disruptive and disordering foreign.

Litwak has argued that the articulation of the rogue state policy is grounded mainly in realist theorising of the international, where it is the external behaviour of a state that informs policy: while he recognises the intellectual bedrock of liberal Wilsonianism in championing expanding democratic governance, the focus upon their foreign behaviour confirms for him a realist tradition.⁴¹ If adherence to human rights norms was the sole standard, he argues, many of America's allies would be on the list (and depending upon which rights are held up as standards, America would be too). Certainly, external actions, presented as the supporting of terror and accumulation of WMD form two of the three prongs of the rogue state profile. However, accusations of such a threatening international stance are made alongside determination of a rogue's 'rationality'. Claims of uncertainty in determining a rogue's interests and possible moves, which has large implications for foreign policy making, are linked in the Clinton administration with an irrationality that is said to be exposed by a lack of human rights. In her investigation of the evolution of the 'rogue state' label, Alexandra Homolar succinctly describes the importance of the domestic regime in security calculations:

"What lies at the core of the US conception of rogue states as irrational actors is not their behaviour in international affairs *per se*, such as the development and proliferation of weapons of mass destruction and sponsoring or engaging in terrorist acts. Rather, in the contemporary US defence policy context, how states treat their own populations has evolved as the crucial marker to determine whether they are recognized by US policymakers as 'rational' actors in international affairs".⁴²

The intentional targeting, or complete disregard for the wellbeing to the point of degradation, of one's own people is argued to be exemplary of a disregard for human life, and therefore indicative of an impossibility of guessing what such actors will do next. When a dictator will let people die from basic needs, or brutally imprison dissenters, why would the lives of other nation's civilians' matter? Indeed, the grid of intelligibility that frames the character of a rogue informs the possible policy choices, as for example traditional notions of deterrence were argued to be misguided in such cases. In 1996, Secretary of Defence Perry argued that rogue states "may be madder than MAD", while the following year, Secretary of State Albright noted the tricky characters because "they are there with the sole purpose of destroying the system".⁴³ How can a power be deterred from destroying all in a death wish when the system itself is indeed the target of their disdain, so the argument goes. Making an impassioned testimony in Congress against the Anti-Ballistic Missile Treaty, Senator Jesse Helms referred to Reagan's quip that "MAD was nuts", going on to claim that

⁴¹ Litwak, *Rogue States* p.62

⁴² Homolar, *Rebels without a Conscience'* p.721

⁴³ Perry quoted in Keith B. Payne, *Deterrence in the Second Nuclear Age* (Kentucky: University of Kentucky Press, 1996) p.58; Albright (1997) quoted in Robert I. Rotberg, *Worst of the Worst: Dealing with Repressive and Rogue Nations* (Washington DC: Brookings Institution Press, 2007) p.9

in the wake of the cold war, "continuing to intentionally expose our nation to ballistic missile attack by rogue states, as a matter of policy, is quite simply INSANE!" The assumption of deterrence is the presence of a 'rational actor', and Helms provocatively poses: "I challenge anyone to argue with a straight face that the adversaries of the 21st century - the Saddam Husseins, Kim Jong IIs, and Ossama (sic) Bin Laden of the world - are 'rational actors'. We cannot depend on MAD to deter them!"⁴⁴ The undeterable rogues then needed a policy of engagement, opposed to passive deterrence, as their domestic policies rendered them barbaric, irrational, and ultimately unable to fulfil the norms of international society.

The 'rogue' conjured a domestic construct of a small cabal of powerful people around a maniacal leader, where the (human) cost of power is not an issue. This perceived irrationality, has also contributed to the increasingly preemptive stance taken toward states defined as rogue - particularly in the context of the War on Terror. Not knowing the next move, when WMD are involved, is depicted as forcing the hand of the 'righteous'. Democracy as rationality, as the purveyor of human rights, peace, and security, is then the antidote to the irrational, uncivilised rogue. In a quantitative study of US foreign policy elites evoking this label, O'Reilly analyses the threat-assessment discourses of the ten states referred to as rogues at one point or another over the Clinton and W. Bush administrations. The WMD acquirement and sponsoring of terrorism do not form a "litmus test", rather, particularly for what are termed "secondary states", the label is earned not so much for their (supposed, future) power, but "due to the fact that they are perceived as nondemocratic often portrayed as totalitarian or authoritarian".⁴⁵ According to traditional realist readings of the international, the focus upon the security threat of rogue states, comparatively weak powers, by the strongest state, the US, would be rather disproportionate. Of both the terror and WMD discourse, it is the latter which gains the most prominence, mentioned in 84% of the time a policy referred to rogue states, whereas the support of terrorism occurred 16%.⁴⁶ Again, references to the potential build-up of WMD speak to the fear of a possible catastrophic threat, rather than a present danger that must be balanced. The disproportionate size of the weapon, wielded by a maniacal leader outside of the civilised norms of international rule, render preemption possible (and perhaps even necessary), which will be discussed further in reference to Bush. Suffice it to say, that a disregard for human life, and thus for the rules of the international game, render the potential unlawful gathering of WMD as catastrophic to those states who *legitimately* own WMD, decided through their own great power status.

The perception of irrationality, which is indeed focused upon external actions, is determined (at least in part) according to analyses of internal behaviour, which informs a

⁴⁴ United States Senate, 'Ballistic Missiles: Threat and Response', Hearings Before the Committee on Foreign Relations, Senate Hearing 106-339 (April-September 1999) S. Hrg. 106-339

⁴⁵ K.P. O'Reilly, 'Perceiving Rogue States: The Use of the "Rogue State" Concept by U.S. Foreign Policy Elites' in *Foreign Policy Analysis* Vol. 3 No. 4 (October 2007) pp.305-306

⁴⁶ O'Reilly, 'Perceiving Rogue States' p.306

policy of pacification through containment. The rogue state complex must also be considered in material terms, of reshaping while retaining defence spending in the new security-scape. While defence spending had to be drastically restructured, the element of uncertainty pervaded contingency planning and subsequent force structure. In light of the dissolution of the Soviet Union, Secretary of Defence Les Aspin undertook a comprehensive 'bottom-up review', which recognised the need to fundamentally re-think every aspect of US security needs and complementing defence structure. The resulting force-readiness that was concluded asserted US indispensability, while recognising the diversity of possible problem areas: "sizing U.S. Forces to fight and win two major regional conflicts provides a hedge against the possibility that a future adversary might one day confront us with a larger-than-expected threat".⁴⁷ The ambiguous language of 'regional conflict' also nods toward the new vulnerabilities of globalisation, where a few actors could destabilise an entire region. The possibility of waging multi- or unilateral approaches to meet the diverse complex of threats emanating from these states, determinedly outside, was addressed by Lake. Beginning with the more desirable, internationalist, multilateral approach:

"Our policy toward such states, so long as they act as they do, must seek to isolate them diplomatically, militarily, economically, and technologically. It must stress intelligence, counterterrorism, and multilateral export controls. It also must apply global norms regarding weapons of mass destruction and ensure their enforcement".⁴⁸

However, the centrality of the US as the sole superpower in paving the way to peace is expressly stated: "The United States has a special responsibility for developing a strategy to neutralise, contain, and, through selective pressure, perhaps eventually transform these backlash states into constructive members of the international community".⁴⁹ The desired trajectory of transformation is made explicit, as well as the 'special' and emancipatory, indeed exceptional, duty of the US to the peoples of the world.

This discursive formation produced a grid of intelligibility through which 'experts' in security and foreign policy could assess behaviour that could be designated as 'rogue'. The significance of the term 'rogue' in this newly conceived 'rogue state' is explored in Derrida's interrogation of the term in both English and the French equivalents (*voyou* and *roue*) interspersed throughout an analysis of sovereignty and democracy. The term 'rogue' is applied to both the human and non-human, signifying deviance and perversity; Derrida also refers to the label as a form of branding, as a marker of exclusion. This analysis is pointed by a quotation from an article from the *Chronicle of Higher Education* which states "a rogue is defined as a creature that is born different. It is incapable of mingling with the herd, it keeps to itself, and it can attack at any time, without warning".⁵⁰ The rogue is therefore

⁴⁷ Les Aspi, *Report on the Bottom Up Review* (Washington DC: US Department of Defense, 1993): Iraq's invasions of Kuwait was claimed to signal new dangers, 'Rogue leaders set on regional domination through military aggression while simultaneously pursuing nuclear, biological, and chemical weapons capabilities'

⁴⁸ Lake, 'From Containment to Enlargement'

⁴⁹ Lake, 'Confronting Backlash States' p.2

⁵⁰ Derrida, *Rogues* pp.93-94

simultaneously within and without. The contingent nature of the threat dictates the need for swift, violent retribution and neutralisation in name of collective security (of species life). It is this framing of the rogue state as the unknowable, irrational element that informs a policy of containment and pacification, where the US is indispensable in maintaining, or restoring, order and control at the international level. The dual position reflects the perception of roguery as the dark side of globalisation: the increasing interdependency of the globe enables flourishing markets and knowledge exchange while also exposing vulnerabilities to be exploited by those opposed to the established global order, engaging in terrorism, the spread of WMD, and international crime. The rational, civilised world was associated with freedom, democracy, capitalism, respect for human rights - the extension of these values all generally tied to the processes of globalisation - which placed the rogues outside, as backward and as steadfastly within history. Clinton spoke of the post-Cold War movement toward the 'global village', a coming together which exposes new vulnerability and which brings new security threats: "we see the every day, the ethnic and religious hatred, the reckless aggression of rogue states, the terrorism, the drug trafficking, the weapons of mass destruction that are increasingly threatening us all".⁵¹ The leadership of the US was therefore needed more than ever, to shepherd entry into new world order and avoid the pitfalls of insidious 'enemies of peace', ready to exploit any and all goodwill. Associating these regimes with criminal activities and terror contributes to a criminalising, delegitimising, and fundamentally depoliticising the identified rogue actors. Action by the US was justified in terms of national security interest, as threats anywhere in the world could threaten regional interests or even reveal themselves within. The amorphous presence of transnational threat, exposing boundaries as permeable, are given a sovereign site in the figure of the rogue, a tangible space - fitting within established IR perceptions - which enable the continued subversion of international rules and law. Clinton further spoke of a "nexus of new threats" composed of "terrorists, rogue states, international criminals, drug traffickers".⁵² The discursive formation of the rogue state could encompass this series of other dangers, as regimes characterised by brutality and lack of human rights, which were likely to support terrorism and seek WMD. Within US foreign policy making circles, such a characterisation shaped, and indeed limited, the parameters of how one could understand and write policy for a rogue state. This dominant discourse formation was fed into a categorisation of state worthiness, with the liberal democratic state held as pinnacle. Madelaine Albright, Clinton's Secretary of State, identified rogue states as those who refused to follow the rules of global order established by the international community of nations, understood both in terms of unacceptable, threatening behaviour in the international sphere and in the violation of human rights standards internally. Arguing for the use of sanctions against rogue states, Albright explains her 'conceptual basis' for understanding the world in terms of four types of nation: the first accept and abide by the

⁵¹ Clinton (1995) quoted in Chin-Kuei Tsui, *Clinton, New Terrorism, and the Origins of the War on Terror* (London: Routledge, 2017) p.90

⁵² Clinton 1996 quoted in Tsui, *Clinton, New Terrorism* p.89

rules of the system; the second are those transitioning to democracy; third are rogue; and finally, the failed states. The stated goal is to move all others into the first category.⁵³ Thus, a narrative of progression has been imposed, whereby those delinquents can be pacified and integrated through a process of correction.

Facing Rogues: Dual Containment

The racialised hierarchies that are present within the discursive formation of the 'rogue' are present in the charge that this is overwhelmingly used to describe Islamic countries: this speaks to the demonisation of Islam as an irreconcilable and absolute enemy (both at home and abroad), where a foreign policy which portrays a dangerous Other encompassing an entire region/religion bleeds into the perception of all Muslims. Islam as a population under suspicion is evident in the contemporary exclusions that are inherent in the Countering Violent Extremism strategies, the rights violations that have continued at Guantanamo Bay and other CIA Black sites, as well as Trump's so-called 'Muslim Ban'. The prominence of Islam in the rogue character was a cause for concern in the policy-making circles of the Clinton administration, who were cautious not to exclude an entire swathe of people in their own population and abroad. In a letter of congratulations to Anthony Lake upon his appointment to position of National Security Advisor, Johnathan Dean of the Union of Concerned Scientists warned Lake of what he perceived as a dangerous tendency in both "Western" and "Moslem" countries to vilify the other, in a 'Clash of Civilizations'-esque ontological dichotomy. In constructing a terrifying nemesis - to rival that of the Soviets - an 'Arc of Islam' is envisioned to encompass the entire Muslim world, contra to the West - placing religious fervour, unfreedom, and barbarity against Modernity (with a purposeful capital M). Dean pinpoints this powerful myth as the culmination of historical and contemporary frictions and resentments, encompassing racial and cultural antagonisms originating from the 7th century, as well as contemporary fears of immigrant communities, and even issues of energy security in the developing world. Referring to a particularly strong dose of this fear existing in European politics, Dean argues that the US should take a leading role in a diplomatic move aimed at both Western and Islamic leaders to facilitate dialogue as well as to educate, to deflate claims of a perceived insurmountable difference.⁵⁴ Writing to Morton Halperin, the newly appointed Special Assistant to the President and Senior Director for Democracy in the National Security Council, in May 1994, Martin Indyk highlighted a few points of "acution" while commenting upon an upcoming speech on

⁵³ Madelaine Albright, 'International Economic Leadership: Keeping America on the Right Track for the Twenty-First Century' Address before the Institute for International Economics, Washington DC (18 September 1997)

⁵⁴ Letter from Mr Dean to Anthony Lake, Union of Concerned Scientists (25 January 1993) in Folder 'Clinton Presidential Records NSC Records Management' (Indyk, Iran, Iraq, dual containment) 9300192 OA/ID 2263, Box 2011-0652-F, Open Box 3 of 3, Clinton Presidential Records NSC emails A1 Records (Jan 93-Sept 94), dual containment 12/13/93-02/14/94, OA/ID 570000 to Clinton presidential records esc records management, Indyk, Iran, Iraq, Dual containment 9496581 (OA/ID 209), Row 117, section 7, shelf 8, position 5, William J. Clinton Presidential Library, Little Rock, Arkansas.

democracy, as he believed particular aspects may gain attention in, what he refers to as, the "Arab world". Indyk argued that due to the lack of a separation between church and state, "there is in fact a contradiction between Islamic government and democracy that should not be ignored". In order to address the US "concern to nurture democracy in the Arab world, we have to begin from the premise that Arab political culture will have to evolve in a democratic direction": therefore, the holding of "free and fair elections" would have to be understood as a future endeavour, but more important, is the promotion of "the building blocks of democratic and civil society: rule of law, minority rights, greater governmental accountability, etc."⁵⁵ Democracy is very much pictured as a way of life, and one that stands in contradistinction to Islamic governance. These foundational tenets of democracy link rights with liberal political ideals, and explicitly divorce such freedoms from Islam and thus, the Arab world. Political rights are liberal and safeguarded only in 'democratic' states. Martin Indyk - Assistant Secretary of State for Near East Affairs - was the architect of the dual containment strategy, which targeted the prime rogue states, Iraq and Iran. The differing policies toward both failure and roguery evidence the different perspectives as to their integration within the world system.

As previously referred to, the strategy of Dual Containment toward the two major powers of the Middle East - Iraq and Iran - both informed and was shaped by the discourse of the rogue. The more general articulation was involved in the evolution of the policy itself. The aim was to secure the dominant US influence in the region, and to unsettle the dangerous alternative ways of life that were said to be inherent in the very existence of these regimes. However, the strategy was very different for both countries. Martin Indyk, the architect of the policy, outlined a foreign policy that reflected Clinton's campaign rhetoric: this was a "democracy-oriented policy", and one which would promote US business interests, secure allies in the region, to stem the rise of "radical regimes" whether secular or religious, to stop the flow of WMD, and fundamentally, was committed to peace in the Middle East.⁵⁶ Referring to the importance of the "vision thing" to the incoming President, Indyk presented the two alternate Middle Eastern futures that hung in the balance: one of a perpetual extremist-led violence, and the other of a flourishing democratisation and economic development through Israeli-Arab-Palestinian peaceful coexistence. Rejecting the prior, hyper-realist, balance-of power policy, whereby the two strongest powers were played off of one another in the US affections, "dual containment" pursued the replacement of the Hussein regime in Iraq through "aggressive containment" and the modification and normalisation of Iranian actions by way of "active containment".⁵⁷

⁵⁵ Memo for Morton Halperin from Martin Indyk (27 May 94) in folder 'Clinton Presidential Records NSC emails, A1 records (Jan 93-Sept 94) dual containment 04/21/94-09/19/94 OA/ID 570000, in Box, 2011-0652-F, Open Box 3 of 3, Clinton Presidential Records NSC emails A1 records (Jan 93-Sept 94) dual containment 12/13/93-02/14/94 OA/ID 570000 to Clinton presidential records esc records management, Indyk, Iran, Iraq, Dual containment 9496581 (OA/ID 209), Row 117, Section 7, Shelf 8, Position 5, Clinton Presidential Library, Little Rock, Arkansas.

⁵⁶ Martin Indyk, 'The Clinton Administration's Approach to the Middle East', Soref Symposium 1993, The Washington Institute (1993)

⁵⁷ Indyk, 'Clinton Administration's Approach to the Middle East'

It is outwith the scope of this investigation to assess the suitability or success of the dual containment policy. However, it is imperative to expose the effect of the discursive formation of the rogue state in the drafting of policy: how did perceptions of the behaviour of Iraq and Iran become ensconced in notions of 'roguishness' in ways which dictated, and thus limited, policy choices.

The multilateral approach of 'aggressive containment' was used in the targeted sanctions regime that was enforced in Iraq, based upon the demand that Saddam comply with all UN Security Council Resolutions. Esteemed war journalist Patrick Cockburn has reported on the rise of Daesh, particularly in terms of the tumultuous Western involvement in the Middle East. He discusses the devastating effect of the sanctions imposed on Iraq for thirteen years, enforced from 1990 to the invasion in 2003. While particularly focused upon post-9/11 military endeavours, Cockburn is compelled through first-hand experience to discuss the sanctions in relation to contemporary Iraq, the experience of which he argues has fallen by the wayside of popular conceptions. Composed of edited collected diary entries from his experiences in the country reporting for the *The Independent*, a picture is painted of a once affluent society forced to the limit in every conceivable sense of need. The UN estimated that somewhere between six and seven thousand Iraqi children died each month due to the effects of the sanctions. Imposed as a strategy intended to oust Saddam Hussein from power, the price was paid by the Iraqi people, their civil society, and the young lives radicalised by a perpetual struggle to survive. Cockburn stresses the contribution of the sanctions to pushing young Iraqis toward extremist ideology or the taking up of arms in order to forge an alternative. Sanctions are often portrayed as a neutral, and even a moral, strategy necessary in order to curb the irrationality of roguish regimes. The lack of interest in the human cost is explained by Cockburn as in contrast to the bombastic, sensationalist coverage of explicitly military actions: "An economic blockade may cause more deaths by a factor of a hundred, but it does so silently and behind closed doors. Its first victims are the very young, the very old and the very sick"⁵⁸.

Beyond sanctions, military force was used against Iraq, but in a fashion that was fitting with the tenets of containment. An investigation into the assassination plot against the former president, Bush Senior, revealed the complicity of the Iraqi government, and the Clinton administration condemnation touched many of the keystones of how we understand the figure of the rogue:

"We should not be surprised by such deeds, coming as they do from a regime like Saddam Hussein', which is ruled by atrocity, slaughtered its own people, invaded two neighbours, attacked others, and engaged in chemical and environmental warfare. Saddam has repeatedly violated the will and conscience of the international community".⁵⁹

⁵⁸ Patrick Cockburn, *The Age of Jihad: Islamic State and the Great War for the Middle East* (London: Verso, 2016) p.38

⁵⁹ Wiliam Clinton, 'Address to the Nation on the Strike on Iraqi Intelligence Headquarters (26 June 1993) <<https://www.govinfo.gov/content/pkg/PPP-1993-book1/pdf/PPP-1993-book1-doc-pg938.pdf>>

It was in a 1998 interview on 'The Today Show' that Madeleine Albright used the famous phrase that lends itself to this chapter. Discussing the possibility of the use of airstrikes in Iraq - which took place in December of that year - in order to impose UN resolutions regarding the holding of WMD, Albright was questioned on the commitment of US troops, by a retired serviceman whose son had died in Vietnam. Responding to the idea that Americans would have to risk their lives while 'the rest of the world are standing by silently', Albright cemented the US position:

"But if we have to use force, it is because we are America; we are the indispensable nation. We stand tall and we see further than other countries into the future, and we see the danger here to all of us. I know that the American men and women in uniform are always prepared to sacrifice for freedom, democracy, and the American way of life".⁶⁰

This indispensability rests upon the defence of the liberal democratic way of life, rendering those nations which falter as subject to correction, and as rendered in Cockburn's account of the sanctions, in some respects dispensable, between a tyrannical and uncaring ruler and a punitive international.

The Iranian rogue, as we have seen emerged as the first 'Outlaw', and along with the legacy of the Iranian hostage crisis, the charge against Iran in the rogue category was framed in terms of the support of terrorism, and therefore the perpetuation of instability and conflict in the Middle East. A point of interest is the stark example of conflicting notions of what exactly constitutes terrorism, particularly as this term has come to be so strictly policed and bounded in the post-9/11 era. Problematising the very specific image of the terrorist as non-state actors which has dominated discursively, usually portrayed as ideological extremists - often pictured as tied to Islam - the Iranian President Khatami referred to a more complex articulation of the possible agents of terror, as well as the struggles of emancipation from such a reign of terror: "Terrorism should be condemned in all its forms and manifestations ... supporting people who fight for the liberation of their land is not, in my opinion; supporting terrorism. It is, in fact, supporting those who are engaged in combating state terrorism".⁶¹ In the 1997 interview with CNN journalist Christine Amanpour, Khatami turned the lens toward Israel and their allies, stressing the Iranian recognition of the rights of the Palestinian people, and in particular, their right to self-determination. The question of who is terrorised is a question of legitimacy over the means of violence. This ultimately exposes the political stakes behind the kind of peace that is sought in the Middle East. The Clinton rhetoric on Iran (as well as other so-called rogue states), relied on a very particular notion of regional stability and Middle Eastern peace, one which was presented as the only path to ending conflict. Any dissenting opinion was thus portrayed as being irrational, barbaric, and ultimately an 'enemy of peace'. There is no recognition of another vision of peace, or any possible recognition of the violence of exclusion. Peace is essentially partisan, recognising a particular constellation of power

⁶⁰ Madeleine Albright, 'Interview on NBC-TV "The Today Show" with Matt Lauer' Ohio (19 February 1998)

⁶¹ Christian Amanpour, 'Interview with Iranian President Mohammed Khatami' CNN (7 January 1998)

relations as the status quo. If politics is the continuation of war, in securing the peace that is up for grabs it is advantageous to delegitimise the enemy as belligerent in the first place. While Khatmani presents the Palestinian struggle for rights, a struggle for the recognition of their right to land and to life, where their bodies are in precarity, the US rogue state discourse depoliticises this struggle, while presenting this violence (and not the dispossession of land) as a vital security threat to the US, as within their national interest. The discursive monopoly upon the meaning of terror, is present in the struggle for the legitimate standards of international behaviour. The human rights adherence which earns a state the designation as 'rational' is in reference to particular human rights, and the struggle by non-state, as well as state actors, is not the search for peace but perpetuation of violence and war. While the domestic regime of the rogue was judged in terms of intent, as a signification of irrationality and unpredictability, the notion of state failure that arose in the early 1990s focused upon postcolonial spaces of similar insecurity but bred through inability.

Failure to Comply: Who's Failed the Failed State?

The other formulation of a dangerous nation state is that of the failure; in contradistinction to the rogues who purposefully flouted international laws, order, and convention, those weak and failing states were unable to be a functioning member and to curb the instability across their regions. The dangers of underdevelopment are placed within the territorial notions of state failure - more recently also referred to as fragility. Both of these state formations are weak powers, that should not traditionally be understood as a major threat but held to pose a threat to stability for different reasons, whether irrational or incompetent. Weber's famous formulation of the state defines it as "a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory".⁶² The evocation of failure therefore hinges upon this central question of legitimacy, and, further, who is endowed with such judgement. The state as the sole purveyor of violence is held to be the maintenance of order. This also precludes the possibility of any further site of power, beyond the bounds of the state. Further, the specifically territorial logic that is employed in traditional IR discourses of the state, bounds sovereignty to Eurocentric and transhistorical organisational principles.

The first use of the term was in an article in - you guessed it - *Foreign Policy*. Published in 1992, the article - tellingly entitled 'Saving Failed States', was written by two US State Department employee, Gerald Helman and Steven Ratner. The title in itself conjures ideas of the White Saviour and Kipling's paternalistic duty of the *White Man's Burden*. The authors diagnose a novel (and pervasive) contemporaneous threat to global stability in the figure of the failed state: incapable of sustaining order and therefore endangering the stability of the international. The opening gambit presents a list including a number of post-colonial and

⁶² Max Weber, *Politics as a Vocation* (Philadelphia: Fortress Press, 1965)

post-communist states, stretching across vast swathes of the globe, touching central and eastern Europe. A robust array of examples of state failure are presented, although a general characterisation concerns "massive abuses of human rights" whereby such states incite violence "imperilling their own citizens and threatening their neighbours through refugee flows, political instability, and random warfare".⁶³ Again, the permeability of borders is placed front and centre, in the possibility of creating a wider, regional issue. The inability to contain such upheaval, and the possible domino effects which transcend state borders, is placed at the forefront of analysis. The roots of this "new" and "unsettling" problem are traced to the proliferation of sovereign states - particularly in Asia and Africa - in the wake of the second World War and subsequent processes of decolonisation (which was then exacerbated by the collapse of the Soviet Union and spate of revolutions). It is claimed that these new states were whole-heartedly included in the international community under the principles of self-determination, subsequently economically aided, and largely given space to grow independently; the authors strongly suggest that to conceive of possible failure in projects of self-determination had been dismissed, or even derided, as questioning the integrity of the decolonisation process. The all-important independence from the yoke of foreign rule offered in the promises of self-determination as primary goal of the UN had taken precedence over structured development based upon calculations of strategies of nation-building, state-survival, and collective security; while the Cold War raged, weak spots could be papered over and indeed actively sustained as a bulwark, but such practices could not continue in the age of the single superpower. As sites of violence and instability, as a threat not only to their own citizenry but as engendering other possible spill over effects - the authors issue a cry for action that "something must be done", arguing that abuses of human rights "including the most basic of rights, the right to life - are distressing enough, but the need to help those states is made more critical by the evidence that their problems tend to spread".⁶⁴ These abnormalities must therefore be contained and cured. It is asserted that unchecked cash injections of aid had not achieved the desired developmental goals, at times instead exacerbating violence and corruption. The guidance of the international community was vital in assuring responsible spending and progress. Lamenting the shield of sovereignty in hiding human rights abuses, the UN-led international community is encouraged to reconsider the steadfast boundaries of non-intervention, and to undertake a role of conservatorship in those areas deemed to be failing.⁶⁵ While the consequences of failure are recognised as far-reaching, the causes are pinpointed as arising within the boundaries of these states, rendering their sovereignty as illegitimate and ultimately dangerous.

The articulation of the Clinton administration to meet this new threat-scape of failure was elaborated by Brian Atwood, administrator at the US Agency for International

⁶³ Gerald B. Helman, Steven R. Ratner, 'Saving Failed States' in *Foreign Policy*, Vol. 89 (Winter 1992-1993) pp.1-5

⁶⁴ Helman, Ratner, 'Saving Failed States' p. 3

⁶⁵ Helman, Ratner, 'Saving Failed States' pp. 12-18

Development (USAID). His vision for a restructuring of the foreign aid and development policy through assistance was aimed toward tackling the root causes of the disorder and unrest in these spaces. Sustainable development was placed at the forefront of a "new framework", with Atwood stressing the US as in a unique position to guide international progress. Emphasising long-term and active engagement, he argued that "African nations recognize the importance of turning to democracy and liberalising their economies", but that positive steps in some countries had to be safeguarded from those crumbling around them, by extending these developments.⁶⁶ The central problem was framed as "ethnic conflict", which had to be tackled head-on through policies which liberalised these states - ethnic tensions therefore arising through illiberalism - pulling them into success, and instigating governance structures which would regulate society in a more ordered and controlled manner, with strategies such as controlling population growth, the unrestrained population growth and large families of developing and struggling nations being a motif that survives to this day. In an editorial for the Washington Post 'Suddenly, Chaos', Atwood referred to "complex humanitarian emergencies" which cut across issues of environment, ethnic conflicts, and bad governance:

"Bosnia, Haiti, Rwanda. These troubling and unique crises in disparate regions of the globe share a common thread. They are the dark manifestations of a strategic threat that increasingly defines America's foreign policy challenge. Disintegrating societies and failed states with their civil conflicts and destabilizing refugee flows have emerged as the greatest menace to global stability".⁶⁷

The target of these developmental strategies under the remit of AID, are the behaviours, attitudes, and ways of life of underdeveloped populations, as these are considered to be the reason for state failure. The onus is placed upon the fostering of 'self-reliance'. The material problem, recognising the global wealth disparity and the complicity of wealthy countries in the poverty of the developing, is never addressed.

The threat of failing states as a possible challenge in itself to the notion of the sovereign state international was also articulated in a further argument, contra to the Fukuyamanian pathway to peace, as Robert Kaplan posited 'The Coming Anarchy' in his apocalyptic reading of the post-Cold War landscape. This article made such an impression on Clinton that he reportedly prescribed it as recommended reading to White House staff.⁶⁸ Kaplan placed the disintegrating political and social fabric of many West African nations as the fate of all sovereign states – doomed as the organising principle of international politics. Kaplan scrutinises the arbitrary nature of the borders drawn in modernity, envisioning the re-imagining of security in the face of "diminishing natural resources", escalating cultural and racial conflict, which would culminate in a perpetual state of warfare.⁶⁹ The deteriorating

⁶⁶ Brian J. Atwood, 'A New Framework for U.S. Foreign Assistance' in *Looking Ahead* Vol. XVI No. 1, National Planning Association (1994) p.8 <https://pdf.usaid.gov/pdf_docs/PBAAC885.pdf>

⁶⁷ Brian J. Atwood, 'Suddenly, Chaos' in *The Washington Post* (31 July 1994)

⁶⁸ NOTE LABEL Toby Lester, 'Beyond "The Coming Anarchy"' in *The Atlantic: Sidebar* (August 1996)

⁶⁹ Kaplan, 'The Coming Anarchy' in *The Atlantic* (February 1994)

situation in both West African and the newly sovereign, former Soviet bloc countries posed a counter-image to the euphoric liberal triumphalism. The drive in the top echelons of US foreign policy-making to gain an understanding of the newly problematised intra-state issues is evidenced in the founding of the State Failure Task Force (now known as Political Instability Task Force) by the CIA, established to study the factors that lead to failure.⁷⁰ A government funded research project, the first report was compiled by academics at the request of US policy-makers in order to understand the correlates of state failure and from there, to determine warning-signs to head off future crises.⁷¹ Defining state failure through reference to the Ratner and Helman article, and noting the novelty of this term in foreign policy discourse in relation to recent events, the study involved looking at all countries between 1955 and 1994, analysing the occurrence of failure through reference to four categories: revolutionary war, ethnic war, adverse or disruptive regime transitions, and genocide. The Task Force found that three clusters of variables had significant correlation with subsequent state failures: (1) quality of life; (2) openness to international trade; and (3) the level of democracy. Once again, the individual, the relations of capital, and democratic governance, are inherently linked to 'successful' statehood. The metrics of failure are coalesced around particular ahistorical and Eurocentric (or Western-centric) notions of statehood, which do not take into consideration the historical formation of these states in relation to colonialism, to the global finance structures constructed by the Global North, or to the continued interference that the sovereignty differentials that continue to exist. The collective fictions of sovereign equality plague analyses of failure. The danger of failure not only threatens regional stability but the status quo of international relations, which had been built upon these 'collective fictions' of equal sovereignty, and the ability of a state to maintain and control its internal affairs.

The research on state failure is plagued by a consistent problem that is beautifully captured by Bilgin and Morton: "the question 'who's failed the 'failed state'? Is almost never asked".⁷² This leaves the power-knowledge structures intact, by pathologising and de-politicising these spaces as doomed to failure due to their own shortcomings in governance, civil society, wealth distribution, and state-building, completely ignoring the colonial context and the related stance upon the global periphery of international finance capital institutions. Indeed, to understand the plight of post-colonial spaces - particular in the African context - in terms of state failure in relation to a lack of good governance has become common sense. The discourse of state failure rests upon the sanitised language of modernisation and development, explored in the previous section, in an imaginary of a series of gradations and technical fixes, where a complicit state will one day become

⁷⁰ [Etsy, et. al. 'State Failure Task Force Report: Phase II Findings' in *Environmental Change and Security Progress Report No. 5 \(Summer 1999\)*](#)

⁷¹ Daniel Etsy, Jack Goldstone, Ted Robert Gurr, Palma Surko, Alan Unger, 'Working Papers: State Failure Task Force Report (30 November 1995)

⁷² Pinar Bilgin, Adam David Morton, 'Historicising Representations of "Failed States": Beyond the Cold War Annexation of the Social Sciences?' In *Third World Quarterly* Vol. 23 No. 1 (2002) p. 66

'developed, or rather, 'successful'.⁷³ However, in the 90s, without the threat of the Cold War and an unstoppable revolutionary tide resulting in a global turn to communism, the capability of a state's capacity to retain order and govern effectively came to be tied to international security, as democracy and the accompanying guarantees of human rights constituted the zone of peace, which should spread like an oil spot. The gradations of state capacity - which Albright also put into four proceeding steps - has as its base a seemingly universal notion of the successful state, the market democracy.⁷⁴ Overtly racist eugenicist language or colonial notions of civilisation are no longer referenced, but the hierarchies permeate the language of self-management and self-reliance - the ability of a people to govern themselves. In a biopolitical audit of the international, the capabilities and utilities of peoples are ranged from successful to failing and rogue. These failures are taken to represent a fundamental lack, but one which can be remedied through tutelage of the correct behaviour, whether rooting out corruption, overseeing fair elections, or providing aid to ensure food security. As Duffield has explained, development and the logics therein function as a moral trusteeship, and in the perpetuation of correct standards and behaviours, it is "a means of governing others".⁷⁵ The questioning of state capacity, a problematisation completely stripped of political implications in the assessment of failure, introduces standards for the respect of sovereign norms, and the intertwining with security, introduced across the Clinton administration a militarised humanitarianism.

This discourse of failure places blame solely on the state itself, as unable – or unworthy – of the sovereign duty and, therefore, subject to the imposition of liberal force. Anne Orford reinscribes the presence of the liberal international community at the site of violence prior to the moment of rescue and redemption in order to disrupt the dichotomy that is continuously presented at time of humanitarian crises: action or inaction. Beginning with a personal anecdote detailing a conversation with a friend on the subject of the Australian intervention in East Timor, the discomfort aroused in questioning the moralistic rush to intervene is exposed in its most banal of circumstances, revelatory of the pervasive power of this regime of truth. Investigating the fragmentation of the former Yugoslavia and the presentation of the roots as founded in ancient, ethnic hatreds, Orford complicates this analysis in introducing the uninformed, insensitive, and escalatory effects of the programme of 'economic liberalisation and restructuring' that was pursued by the World Bank and IMF from the 1970s.⁷⁶ Effacing any prior engagement, the lessons learned appear to be that in the crucial moment of decision to deploy military intervention, action should be preferred.

⁷³ Bilgin, Morton, 'Historicising Representations of "Failed States"'; Branwen Gruffyd-Jones, 'Good Governance and State Failure: The Pseudo-Science of Statesmen in Our Times' in *Race and Racism in International Relations* (ed.) Anievsk, Msanchanda, Shilliam (p.72)

⁷⁴ Madeleine Albright, 'Remarks at Tennessee State University', Nashville, Tennessee (19 February 1998). Albright explains her 'conceptual basis' for understanding the world in terms of four types of nation: the first accept and abide by the rules of the system; the second are those transitioning to democracy; third are rogue; and finally, the failed states. The stated goal is to move all others into the first category.

⁷⁵ Tschirhart, 'Mark Duffield on Human (In)Security'

⁷⁶ Anne Orford, *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law* (Cambridge: Cambridge University Press, 2003) pp.87-96

Intervention to establish successful governance was not only possible but responsible. The notion of failure necessarily places emphasis on its counterpart, success, as a progression. Successful statehood has been increasingly normalised as liberal democratic, capitalist governance. Vivienne Jabri similarly interrogates the constitutive role of warfare in the (re)articulation of the international in terms of a moralising discourse of humanity. The agency of liberal democratic states – particularly the US – in the reconstitution of the international order confers legitimacy in a hierarchical, transnational sphere of operations under cosmopolitan right. As Jabri argues, these interventions enable the use of liberal force to reconstitute the structure of global (dis)order: "the trajectory is punishment, pacification, discipline, and ultimately 'liberal democratic self-mastery'".⁷⁷ The figure of the failed state then forfeits the autonomy of sovereignty on equal terms in the name of an endangered humanity, who must then learn the practices of successful statehood. Such practices therefore seek the removal of the Other in the complete loss of legitimacy and prescribed normative reconstruction. The functioning power/knowledge assemblages perpetuate the truth of the peaceful nature of democratic governance and the inclusion of human-as-species in the fruits of this freedom. This enables the establishment of political identities within the framework of liberal war whereby the intervening force is conferred legitimacy in the revocation of sovereign autonomy by the rescue and rehabilitation of the targeted population. Conflict is waged on behalf of the population, of the liberal modality of life.

The response of the Clinton administration to state failure, understood in terms of humanitarian, legal, and security issues, was to engage in multilateral 'military operations other than war', particularly in the form of peace-keeping and nation-building. Within the remit of the policy of democracy promotion as elaborated above, the Clinton administration attempted to develop their military operations within a multilateral scope, while retaining the authority to launch unilaterally if deemed necessary.⁷⁸ Exploring the increasingly atomised and ahistorical readings of 'Third World development' that have been fostered under the framework of the development-security nexus and the interventions legitimised through this logic, Robbie Shillam has critiqued the pathologising of state failure that completely exclude any critical engagement with the politics of race, focusing upon Haiti, which he argues has become "symbolic of the failed state phenomenon in Washington foreign-policy making circles" since the 1994 intervention.⁷⁹ The technical language of development through foreign assistance strips such support of any racial or hierarchical structuring that are founded in colonial logics. The pathologising of failure completely negates the economic and political interests that have been pursued in these territories, whether or not these were (un)intended consequences that undercut the ability of the state to function.⁸⁰ Reminiscent of the contemporary, continuing crisis in the Mediterranean of

⁷⁷ Vivienne Jabri, *War and the Transformation of Global Politics* (New York: Palgrave MacMillan, 2007) pp.119-124

⁷⁸ I will develop this in Chapter 4.2.

⁷⁹ Shillam, 'Haitian Revolution' p.779

⁸⁰ For example, Clinton's introduction of cheap rice to the Haitian market and the unindented consequences of flooding the Haitian market and pushing farmers out of business: See also, Noam Chomsky, *Failed States: The*

refugees risking their life in unsafe, overcrowded dinghies and leaky rafts, the initial Clinton administration response to Haiti was focused upon Haitian refugees drowning in their plight to reach the US, which was held up as a dilemma of ethical foreign policy making. The administration had stressed both uni- and multi-lateral possible causes for the US to intervene in sovereign space, and the Haiti case was debated in the upper echelons of the Clinton administration on both sides, as Lake was a key proponent of the restoration of Aristide while the Pentagon and the Secretary of State were opposed to military action. Taking a diplomatic and multilateral approach, the US took the issue to the UN, imposing economic sanctions and applying pressure to gain UN backing. Domestically, the administration rhetorically focused upon the human rights abuses in Haiti, placing their progress in comparison with the democratic turn in their shared hemisphere. In an address to the nation on Haiti in September of 1994, Clinton placed emphasis upon the brutalities faced by women and children, drawing attention specifically to rapes and the terrorising of orphans. Democracy, and specifically the will of the Haitian people to enact democracy - evidenced by the democratic election of Aristide - played a large part in the address. Democracy would not only bring peace and stability, but prosperity in the creation of new markets, as well as stemming refugees as people would want to stay in their own nations.⁸¹ While questions remain as the US involvement in the 1991 coup which ousted Aristide from power, democracy was heralded as fledgling in Haiti, demanding external support.

The UN Security Council resolution 940 of July of 1994, marked a shift in the internationally recognised norms of sovereign autonomy, recognising (following intense US pressure) the requirement for an "exceptional response" to the "unique character of the present situation in Haiti and its deteriorating, complex, and extraordinary nature".⁸² The resolution sanctioned intervention by military force for the stated goal of "restoring democracy" to Haiti. Recognised by the UN, the US-led, multinational 'Operation Uphold Democracy' was formed in order to end the Haitian coup that had taken power in 1991. In the face of military intervention, and with a diplomatic mission headed by US stalwarts of diplomatic relations Jimmy Carter, Senator Sam Nunn, and Colin Powell, the coup capitulated and restored the ousted, democratically elected leader, Aristide. This was an intervention legitimised purely on humanitarian grounds of insecurity, as there is no presence of an aggressive external threat, rather recognising the 'situation in Haiti' to be a source of possible instability in the region.⁸³ The threat of the bringing to bear of the military might of the international community had been sanctioned by the UN, legitimised by the restoration of democratic government. In a *Foreign Affairs* article, Strobe Talbott -

Abuse of Power and the Assault on Democracy (New York: Owl Books, 2007) pp. 153-155, for long term engagement of the US in the prototypical 'failed state'.

⁸¹ William Clinton, 'Address to the Nation on Haiti' (15 September 1994)

⁸² United Nations Security Council, 'Resolution 940' S/RES/940 'Authorization to Form a Multinational Force under Unified Command and Control to Restore the Legitimately Elected President and Authorities of the Government of Haiti and Extension of the Mandate of the UN Mission in Haiti (31 July 1994)

⁸³ A resolution two years earlier was directed toward Somalia, to end the civil war, undertaken due to the 'magnitude of the human tragedy' United Nations Security Council, 'Resolution 794' S/RES/794 'Somalia' (3 December 1992)

the deputy Secretary of State - penned a piece explicating democracy promotion as a key component of American national (security) interests. Again, this is tied to the fight against the totalitarianisms of the twentieth century, and the triumph of a particular way of life, as it was a struggle in terms of the social contract, of the relation of the individual citizen with the state. Discussing the stakes involved in the governance of other states to the security of the 'close-knit' community of democratic nations, and the merits of the spread of democratic governance - which includes being less likely to engage in terrorism or wage war with each other - a footnote directly references the academic discourse of Democratic Peace theory: "A substantial body of empirical evidence and political science scholarship supports the premise that democracies are less likely to fight wars with each other - and more likely to win wars against autocratic states".⁸⁴ In the age of interdependence and globalisation, Talbott argues that the realist disregard of democracy-promotion as needless interference in the domestic affairs of others propagated by 'woolly-minded idealists' are actually themselves ignorant to a changed international landscape, and ultimately unrealistic. Referencing this academic discourse draws upon notions of expertise in the inclusion of democracy into the national security rationale, and within this piece, written in 1996, Talbott goes on to justify the intervention in Haiti. Explaining the drive by the administration to push for military force at the UN, Talbott refers to the precarious plight of refugees taking unsafe passage to the US, arguing that "President Clinton's desire to defend democracy and his obligation to protect American borders combined to justify the use of military force".⁸⁵ Thus ethical concerns and traditional security notions of borders were married, where the fostering of self-reliance would stem the flow of refugees. This explicitly ties the dangers of allowing undemocratic governments to reign if they do not pose a direct, external aggressive threat, to traditional security fears such as the maintenance of borders. While drawing reference to the inhumane passage of refugees, it is the danger of these refugees entering America that is related to security. The escalating humanitarian crises across the 1990s came to a head on the edge of Europe as the NATO military action in Kosovo was launched without a UN sanction.

We Are All Internationalists Now

The NATO action in Kosovo in the final decade of the twentieth century marks a paradigmatic shift in the discursive practice of humanitarian intervention, acting without explicit UN authorisation while evoking the language of just war. The rhetorical framing of both the Clinton and Blair administrations condemned Milosevic's regime as failing to legitimate the exercise of sovereign power, equating the dangers posed with the failures of appeasement, referencing a scale of the human cost of inaction. President Clinton, addressing the American people on the decision to bomb, evokes a scene of devastation

⁸⁴ Strobe Talbott, 'Democracy and the National Interest' in *Foreign Affairs* (November/December 1996) There is also a reference to the Freedom House Freedom Rating.

⁸⁵ Strobe Talbott, 'Democracy and the National Interest'

and loss – asserting that “ending this tragedy is a moral imperative” – and continues by stressing the geographical significance of Kosovo in terms of stabilising global order: “take a look at this map. Kosovo is a small place, but it sits on a major fault line between Europe, Asia, and the Middle East at the meeting place of Islam and both the Western and Orthodox branches of Christianity”.⁸⁶ This unauthorised use of force therefore referenced a critical gap between the needs and wants felt in the transnational, globalised world, and the instruments in place for enforcing international law and maintaining (liberal) order. The memory of the collective failure of the international community to intervene in the Rwandan genocide also fuelled the cries for action. Pertaining directly to the geographical area in question, the outcomes of the Bosnian War also influenced decisions; as Rieff notes, “to varying degrees, three of the principal Western leaders – Clinton, Blair and France’s Jacques Chirac – now regretted their nations’ passivity during the Bosnian War”.⁸⁷ There existed a resolve that such horrors could no longer continue under the gaze of those championing universal human rights, without undermining the legitimacy of this claim. In Butler’s exposition of Clinton’s rhetoric surrounding the conflict, he observes a focused condemnation of Milošević as the architect of the emerging humanitarian disaster, and an evocation of the language of ‘just causes’ and ‘right intentions’, in late 1998. This is evident in Clinton’s announcement of NATO’s ‘activation order’:

“Given his intransigence, ***the 16 members of NATO have just voted to give our military commanders the authority to carry out airstrikes against Serbia.*** This is only the second time in NATO’s history that it has authorized the use of force – and the first time in the case of ***a country brutally repressing its own people***”.⁸⁸

There is also a clear justification of the threat: given Milošević’s refusal to comply with the will of the international community conveyed in the UN Resolutions, the unified states of NATO are assumed to be warranted in taking the initiative to enact this will. It was argued that action was legitimated by the spirit of the UN Charter. The NATO air strikes in Kosovo under Operation Allied Force took place from March 24th to June 10th 1999, without UN authorisation.

It was thought that capitulation would occur within a few weeks of the air campaign; however, when this did not occur, the implications of the strategic decision to wage war exclusively from the air began to emerge. While the practices of liberal (humanitarian) warfare will provide the focus of the final chapter of this thesis, it is important to note the developing paradigm in liberal democracies of avoiding personnel casualties evidently informed this choice, which appeared to demonstrate a belief that the lives of the NATO airmen were more valuable than those of the civilians they were purportedly trying to save. The ethnic cleansing envisioned by Belgrade was able to continue at an intensified rate

⁸⁶ William Clinton, ‘Address to Nation on Yugoslav Strike’ (24 March 1999)

⁸⁷ David Rieff, ‘Kosovo: The End of an Era?’ in *In the Shadow of ‘Just Wars’: Violence, Politics and Humanitarian Action* (ed.) Weissman (London: C. Hurst & Co Ltd. 2004) p.289

⁸⁸ Clinton (1998) quoted in Michael J. Butler, *Selling a ‘Just’ War: Framing, Legitimacy, and US Intervention* (Basingstoke: Palgrave MacMillan, 2012) p.147, The italicized and bold font is Butler’s own.

while the tactical judgement to fly at high altitudes contained the risk of the accidental bombing of civilian targets.⁸⁹ As support for NATO began to wane and the voices of critics grew louder, further elaboration of the necessity of continued action was imperative and provided by Tony Blair. The unprecedented intervention undertaken had been a gamble by the leaders of the member states of the alliance, and inconclusive results a month into the campaign produced unease. The necessity of retaining the American support, providing the vast majority of the force brought to bear, was felt in Europe and the motives and ideals informing the intervention had to be stressed to ensure their continued presence in essentially European affairs. The moral-political outlook of liberal internationalism was evoked in Blair's famous Chicago speech, in which he asserted that this war was "based not on any territorial ambitions but on values": he asserted as inevitable and inescapable global reality that 'we are all internationalists now, whether we like it or not [...] we cannot turn our backs on conflicts and the violation of human rights within other countries if we want still to be secure"⁹⁰. International security was inextricably bound then to instability anywhere, and the burden of failure was therefore placed before the international community. The inherent interdependency of globalisation, then, demanded such exceptionalism – NATO acting outside of international law – in order to sustain that very order. The 'exceptionalism' of humanitarian action lies in the focus placed upon populations in need of rescue in the name of international peace and security, while subjecting such bodies to the imposition of force in pursuit of transformation: killing in the promotion of (particular conceptions of) life. The NATO action in Kosovo exposes the power of the legitimising discourse of 'humanitarianism'. While the neoliberal economic reforms pursued after the fall of Communism significantly contributed to the fracturing of Yugoslavia and the fuelling of the nationalist movements, Barkawi notes the discursive construction of the West as the 'humanitarian intervener', as the saviour, entering the fray of barbarism: "rather than a humanitarianism that faces squarely the consequences of Western wealth and power for the rest of the planet, the notion of 'humanitarian war' offers an irrefutable and exciting morality tale in which western militaries are figured as the sword of justice".⁹¹ Such a distinction fails to reflect the inhumanity of the West in the ongoing systems of exploitation, by stripping the enemy of their past, political, and humanity.

In the aftermath of the Kosovar war, the 'National Security Strategy for a New Century' outlined three categories of national interests guiding US action as "vital interests", "important national interests", and "humanitarian and other interests", thereby authorising the bringing to bear of American power (uni- or multilaterally) in circumstances "where our values demand it".⁹² The inclusion of humanitarian interests is said to comprise the Clinton

⁸⁹ Jean-Marc Coicaud, 'Solidarity Versus Geostrategy: Kosovo and the Dilemmas of International Democratic Culture' in *Kosovo and the Challenge of Humanitarian Intervention* (ed.) Schnabel, Thakur (Tokyo: United Nations University Press, 2000) p.471

⁹⁰ Tony Blair, 'Speech before the Chicago Economic Club', Chicago (22 April 1999)

⁹¹ Tarak Barkawi, 'Air power and the liberal politics of war' in *The International Journal of Human Rights* Vol. 4 No. 3/4 (2000) pp.310

⁹² United States, 'A National Security Strategy for a New Century' (Washington DC: White House, 1999) pp.1-2

Doctrine: never officially articulated but understood as the recognition of American duty to intervene. Reflecting upon the future international role of America in the final decade of the twentieth century, Clinton stresses the need for the active engagement of US foreign policy in furthering the positives of globalisation in the spread of freedom, democracy, and prosperity. In justification of expeditionary intervention, he claims: "The question we must ask is, what are the consequences to our security of letting conflicts fester and spread. We cannot, indeed, we should not, do everything or be everywhere. But where our values and our interests are at stake, and where we can make a difference, we must be prepared to do so".⁹³ The global imaginary of threat assumed across the 90s therefore legitimised the waging of liberal war, in the name of species life promotion, in those sovereign spaces deemed to have failed or reneged upon their duty of (inter)national care.

Just two years before the articulation of the 'Responsibility to Protect', the 'Kosovo Report' of the Independent International Commission on Kosovo found the NATO military action to be "illegal but legitimate": illegal as it did not attain UN approval, but legitimate as it was the last resort in liberating the majority of the population under Serb oppression.⁹⁴ While the post-war consensus on non-intervention was never equally applied, Chomsky notes the embrace of the 'Western elite sectors' of a dichotomous worldview, in which the Enlightened states were endowed with right to extend the use of force restrained to the Article 51 on self-defence. Chomsky points this consensus by a comparison with the Declaration of the South Summit in 2000, as revelatory in the "propriety in the use of force". The "highest-level meeting ever held by the former nonaligned movement", the declaration not only rejected the doctrine of a 'right to humanitarian intervention' but inserted an analysis of neoliberal globalisation: the document largely ignored and if recognised at all in the West, only with derision⁹⁵. The South African jurist who led the Commission, Richard Goldstone, delivered the 2000 Morgenthau Memorial Lecture, 'Kosovo: An Assessment in the Context of International Law', in which he claimed that "the NATO intervention set too important a precedent for it to be regarded as an aberration", noting that state sovereignty was being fundamentally redefined by the global reach of human rights⁹⁶. The NATO action in Kosovo is indicative of liberal democracy as the marker of sovereign security, and of the 'liberal' prefix as an assumed legitimacy.

⁹³ William Clinton, 'Remarks by the President on Foreign Policy', San Francisco (26 February 1999)

⁹⁴ The Independent International Commission on Kosovo, *The Kosovo Report: Conflict, International Response, Lessons Learned* (Oxford: Oxford University Press, 2000)

⁹⁵ Chomsky, *Failed States* pp.81-82

⁹⁶ Richard Goldstone, 'Kosovo: An Assessment in the Context of International Law', Nineteenth Annual Morgenthau Memorial Lecture (12 May 2000)
<<https://www.carnegiecouncil.org/publications/archive/morgenthau/739>>

3.5 Transnational Terror Networks: The Unable or Unwilling

"America is now threatened less by conquering states than we are by failing ones"
- US Government, National Security Strategy of 2002

Freedom as a natural value, as it has been tied to democratic governance as respecting the freedom of the individual - belies the heterogeneous, and contingent, power dynamics that are inherent within it. While the numbers of both civilians and combatant deaths remain unclear - and the attribution of the label 'insurgent' or 'enemy combatant' further muddy the water - tens of thousands of Iraqis have been killed in the (ongoing) Iraq War, as a war not only *against* Terror, but also *for freedom*. The dawning of the War on Terror is often regarded as a fundamental break from the humanitarian internationalism which fuelled the interventionism of the 1990s. The protection and promotion of human rights norms as objectives of the War on Terror is a rather under-researched question, other than in terms of abuses of human rights (for example in reference to extraordinary rendition, secret detention, the inhumane torture techniques exposed at Abu Ghraib, and targeted assassinations) or regarding perceptions of a disingenuous recourse to human rights chat by Bush and Blair as a cover for 'real' motives. Considerations of military interventions in the name of human rights that focus upon legality or ethicality place the analysis exclusively within existing debates of just war and international law requirements. Such analyses are concerned, on the whole, with debating legal frameworks and norms, or upon exposing the nefarious intentions masked by the assertion of humanitarian concern. The legal analysis focuses upon the establishment of precedents but does not necessarily question the logics reproduced regarding the value and protection of human life. It is imperative to interrogate the supposed 'universal standards' that are applied when countering sovereign autonomy, and the existing formations of knowledge which can be called upon as legitimising, in a global moral standard. This chapter develops upon the notion of a discursive monopoly on freedom - which underpins the human rights regime of truth - that is mobilised in the framing of nation-state responsibility.

The post-9/11 global landscape has borne witness to a security saturation: new governmental institutions; policing techniques; wars of land and air; profiling at home and abroad; and the publication of countless articles and books detailing security and/in the 'novel' terrorist threatscape. The question of freedom, who is entitled to invoke freedom of action and how much freedom is permissible when terrorists can hide in plain sight, is constantly being negotiated. It has been insisted that these "acts of war" changed everything, a perception which rejected the conception of terrorism as criminal act and recognised liberal democracy as a belligerent. The US have been presented as spearheading "civilisation's fight" (as Bush put it) against the evils of terrorism and its supporters, branded the "enemies of freedom": the US as an unequivocal force of good in spreading the civilised

system of rights and values, depoliticising and dehumanising the enemy.¹ The discursive formation of the War on Terror, and the failed and rogue states from which terror emanates, entwined individual rights, free markets, and democratic governance as civilised and pacific states. Those found lacking were subject to a 'liberal' intervention, the victory consolidated through regime change.

Much ink has been spilled (or perhaps rather keys typed) over the supposed novelty of the post-9/11 landscape, the US response in labelling the terror attacks as 'acts of war', and the amorphous conduct of a war against an abstract noun. Countering terrorism has been used as a justification for multiple actions across sovereign borders, including the contemporary use of drone strikes which can be conducted without the formal declaration of war, that are all within an increasing remit of 'self-defence'. Issues of 'national security' - against a network of terrorist cells - are then accompanied by a level of secrecy and therefore, a lack of transparency. Julian Reid has highlighted the focus of critique upon suspicion of hypocritical evocation of the concepts of peace and humanity and argued that this suspicion should also be directed toward the concepts themselves, and the limitations of critical thinking that are therefore enforced. We must pose the question: "which forms of life have been and are deemed capable of peaceful living under liberal conditions and, conversely, which forms are associated with the threat of war?"² If a mainstay of liberal political theory is the removal of the state of war from the life of its citizens, and terrorism is portrayed as an attack upon this way of life, what lives can then be warred against in the name of universal freedom and human dignity? As has been argued throughout this chapter, questions of humanity and security have been used to problematise sovereign governance - with any perceived 'lack' condemned as dangerous - and the freedom and rights of the individual against repressive states have been a persistent discourse in righteous war before the second Bush presidency. The Global War on Terror draws upon a nexus of human rights and humanitarianism, security, development, and sovereign duty in rendering the international as the site of an existential battle that knows no bounds. The supposed novelties (re)produce racial dualisms that have been foundational to International Relations theory, with anarchy emanating in the non-white world and demanding responsible guidance. Against a networked, non-state adversary, reaping the benefits of ungoverned sites and brutalised populations, the Bush administration constructed a legal framework for intervention in sovereign spaces on a presumed guilt, for the protection of freedom and humanity. The legal and moral framework of the 'illegal but legitimate' action in Kosovo, was strengthened by Bush rather than effaced.

What is referred to as the Bush Doctrine encompasses an embrace of unilateralism in international relations, and the waging of preemptive war - also known as 'anticipatory self-defence' - accompanied by a strategy of democracy promotion. The aim of regime change in both Afghanistan and Iraq, was upheld not only by fears of WMD in the wrong hands, but

¹ George W. Bush, 'Address to a Joint Session of Congress and the Nation', (20th September 2001)

² Julian Reid, *The Biopolitics of the War on Terror: Life Struggles, Liberal Modernity, and the Defence of Logistical Societies* (Manchester: Manchester University Press, 2006) p.5

also by a discourse of threat to *freedom*. Freedom encompassed not only individual rights, but also a regulation of state intervention (understood as threatening to the individual) which could only be realised through (liberal) democratic governance. In an international imaginary of democratic and capitalist peace, the security of freedom - and in a larger sense of humanity as civilised, modern, and rational - was intertwined with liberalism and the spread of (neo)liberal values. In contrast to the 'successful societies', are the unsuccessful and unfree. The inherent unfreedom of those Other, the inhumanity of the tyrannous and underdeveloped was doctrinally embedded in a threat-based analysis of the intentions and implications of domestic regime types. The change in threatscape was captured in the assertion that "America is now threatened less by conquering states than we are by failing ones".³

A Balance of Power that Favours Human Freedom: Fighting Terror and Enduring Freedom

The cover letter of the National Security Strategy of 2002 (NSS02) - the doctrinal framework of the War on Terror - calls upon the US to use their unprecedented military and economic power to shape the international and to "create a balance of power that favors human freedom", where all countries will be able to make the choice to reap the benefits of political and economic liberty.⁴ Commenting upon this vision, ten days after this strategy was sent to Congress, the National Security Advisor Condoleezza Rice delivered an address on national security as the Wriston Lecture - a venue typically reserved for the discussion of domestic policy. This is symbolic in itself of the official embrace of a security beyond the inside/outside divide, and an executive recognition of a need to institutionally break such distinctions. This security speech, framed by the defence and promotion of *human freedom*, is a good place to start, as presenting both as essential values - quantifiable, homogenous, and universally attainable - a theme that has proved consistent in the War on Terror (under its various guises since it began in 2001).⁵ Rice lays out a three-pillared strategy to attain this balance of power: "We will defend the peace by opposing and preventing violence by terrorists and outlaw regimes. We will preserve the peace by fostering an era of good relations among the world's greatest powers. And we will extend the peace by seeking to extend the benefits of freedom and prosperity around the globe ".⁶ This chapter will interrogate the logics underpinning each of these steps, through the unsettling of the constructions of 'peace' and 'freedom' that are presented as universal and eternal values to be maintained and promoted. This three-fold process of power-shifting can be reframed as entailing: the problematisation of spaces amenable to terrorism; the creation of a 'balance of power', which is informed by a neo-Kantian democratic peace thesis; and finally, that individual freedom - as realised *only* in liberal democracies, will quell extremist urges - as

³ United States, *The National Security Strategy of the United States of America* (Washington: President of the US, 2002) p.2

⁴ United States, *National Security Strategy*, (2002) preface. [NSS02 hereafter]

⁵ Didier bigo, 'Delivering Liberty and Security?' p.398

⁶ Condoleezza Rice, 'A Balance of Power that Favours Freedom' *Wriston Lecture*, New York (1 October 2002)

well as the myriad other constraints fostered in unfree spaces. Freedom has been associated with belligerence-as-defence, freedom being a struggle for liberty, choice, wealth, and individualism. Within a dichotomous call, either you are with us or against us, any questioning of liberty is rendered unfreedom, while war and practices such as drone strikes can be understood as liberatory. Creating the "balance of power that favors human freedom", places individual freedom as dependent upon democratic governance, which is then dependent upon the existence of other democracies to protect sovereign integrity. Security across the individual to the international demands' freedom across these subjective and spatial planes, the US having a duty to promote freedom, even by force. Within the human rights regime of truth, freedom is respect for human rights, respect for human rights being realised *only* through market democracy, market democracies being pacific regimes and therefore secure and stable. Equating freedom with human rights and civilisation differentiates the free, rights-governed subject, which enables the selective revocation of freedom and rights. This universal, normative truth claim conceals, and indeed entails, the sacrifice of all alternatives.

The opening salvo of the NSS02 declares the triumph of liberty against the various totalitarianisms of the twentieth century as an indication of "a single sustainable model for national success: freedom, democracy, and free enterprise": as Thatcher said, "there is no alternative". Freedom is characterised as a universal category gradually achieved through the inevitable march of human progress, an aspect of human nature that can only be stopped (temporarily) by misinformed or malicious groups. Crucially, freedom is portrayed here as ensuring a particular order and assuring security at the international level, one that reproduces the capitalist world order. The Global War on Terror, where "freedom and fear are at war" is placed within a timeless, righteous, ongoing struggle for freedom:

"Freedom is the non-negotiable demand of human dignity; the birthright of every person—in every civilization. Throughout history, freedom has been threatened by war and terror; it has been challenged by the clashing wills of powerful states and the evil designs of tyrants; and it has been tested by widespread poverty and disease. Today, humanity holds in its hands the opportunity to further freedom's triumph over all these foes".⁷

The inclusivity of freedom, and the imperative that it is realised universally for peace, was evoked in the presentation of threat for both Afghanistan and Iraq. The military framing has also had a prominent and consistent reference to freedom, suggesting its promotion as the central tenet of the missions. Operation Enduring Freedom encompassed all combat operations in the war in Afghanistan, which also included counter-terrorism actions in both the Philippines and the Horn of Africa. This operation continued until 2014 - after 13 years - when President Obama declared its end, with continuing operations in Afghanistan under Operation Freedom's Sentinel. A Sentinel refers to a guard or a soldier who is ordered to keep watch. The journey between the two operations would seem to chart the

⁷ NSS02, Preface.

establishment of a durable freedom, which must now be maintained and surveilled to enable its flourishing. Operation Freedom's Sentinel is the US mission in Afghanistan which will continue counterterrorism efforts while working alongside the NATO Resolute Support mission. These missions are designed to offer support, training, assistance, and advice to Afghan security and police forces, offering their tutelage in freedom (and, the silent partner, security) for a sustainable nation state.⁸ Action in Iraq was similarly posed as liberatory - with the war being conducted under the moniker Operation Iraqi Freedom, with Operation New Dawn briefly replacing this from 2010-2011, when the war was declared over. At the moment there is no such hyperbolic term for the action against Daesh.

Freedom Will Be Defended: "Civilization's Fight"

The claim that human rights rhetoric was only evoked after the invasion of Iraq, as a convenient and retroactive legitimacy in the failure to find WMD, does not recognise the charges of human rights abuses railed against the Taliban and Hussein regimes from the beginning of their demonisation, as well as the immediate, dichotomous lines drawn across the world through reference to 'freedom'. Mere hours after the plane hijackings and the horrific attacks on 9/11, the opening sentence of Bush's address to the nation equated freedom to the US as target: "Freedom itself was attacked this morning by a faceless coward. And freedom will be defended".⁹ The US then had been called to fight this amorphous, unknown, and cowardly force in defence of liberty. In creating a distinction between the free world and the barbaric Other, the Bush administration drew upon foundational principles of International Relations, in which the state of nature threatens civilisation. The explicitly Western values of civilisation were placed under attack: "the terrible tragedies of September 11 served as a grievous reminder that the enemies of freedom do not respect or value individual rights. Their brutal attacks were an attack on these very rights [...] The heinous acts of terrorism committed on September 11 were an attack against civilization itself".¹⁰ These "enemies of freedom" were then enemies of civilisation, bringing chaos and disorder. The US nation, which had physically suffered the attacks, was a stand in for the good forces in the world. The discursive formation of civilisation draws upon the inherently 'good' individual rights, free markets, and democracy, as constituted against the absolute evil of the uncivilised, unfree, poverty-stricken, and extremist barbarians. The physical manifestations of US power that had been successfully struck by al Qaeda being the World Trade Centre and the Pentagon barely need to be highlighted. However, the extension of markets and military power would form the thrust of self-defence.

The centrality of individual, negative rights to the ascription of membership to

⁸ General John F. Campbell, 'Operation Freedom's Sentinel and Our Continued Security Investment in Afghanistan' US Forces-Afghanistan/ISAF, Resolute Support Mission (1 October 2015)

⁹ Bush, 'Freedom will be Defended'

¹⁰ George W. Bush, 'Proclamation 7513', 3 CFR 7513, Human Rights Day, Bill of Rights Day, and Human Rights Week (9 December 2001) <https://en.wikisource.org/wiki/Proclamation_7513>

civilization was affirmed in an address following the invasion, as Bush declared that "respect for human dignity and individual freedoms reaffirms a core tenet of civilized people everywhere"; the supposed consensus of civilisation was turned toward the dangerous and disdainful terrorist Other as "civilized people everywhere have recognized that terrorists threaten every nation that loves liberty and cherishes the protection of individual rights".¹¹ This address further placed the US at the centre of a universal human rights promotion and protection, by declaring the following day - December 10 2001 as Human Rights Day, the 15th as Bill of Rights Day, and that week from December 9th as Human Rights week, in remembrance of the US as a nation forged in rights, with a mission to promote these liberties. The moral and political arguments that underpinned the assertion of the use of force in Kosovo as 'illegal but legitimate' can be read in the human rights framing of the War on Terror. The (multilateral) invasion of Afghanistan was justified in the UN, as an act of self-defence through reference to Article 51, therefore human rights rhetoric was not necessary to render the action legitimate. However, the promotion and defence of human rights and/as freedom was mobilised by the Bush administration, revelatory of how embedded notions of human rights - as negative, individual civil and political rights - had become in notions of international sovereign legitimacy. The populations of both Iraq and Afghanistan were simultaneously conceived as victim and perpetrator. The discourse of human rights abuse informed a two-fold argument for war, both in Afghanistan and then in Iraq: firstly, that the Taliban and Hussein regimes had 'brutalised' their own people, through the limiting of freedom and abuse of humanity, which justified intervention; and secondly that regime change was therefore necessary to provide for the greater security of all. The discursive monopoly on the meaning of freedom - and the means of its defence - must be interrogated to expose the multiple power relations (re)produced as 'liberty'.

From the outset, the threat posed by the Taliban in harbouring al-Qaeda was supported by and linked to the regime as abusers of human rights. The notion of human rights and/as freedom as mobilised by the Bush administration is revelatory of how embedded these norms had become in problematisation of the sovereign legitimacy (of postcolonial spaces). The abuses toward the domestic population of Afghanistan immediately came to the forefront, particularly with reference to the attainment of 'women's rights': famously, both Laura Bush and Cherie Blair undertook press campaigns pushing for recognition of the suppression of women (and children) under the Taliban regime. The radio address by Laura Bush linked the "deliberate human cruelty" suffered by Afghan women and children to the overarching themes of terrorism, unfreedom, and barbarism that her husband was outlining. Arguing that the fight against terrorism cannot be separated from the struggle *for* the rights and dignity of women everywhere, Bush claimed that the "brutal oppression" of women is a "central goal of the terrorists". Further, the overthrowing of the Taliban was a struggle *for* woman, as well as an existential struggle over ways of life, "because in Afghanistan we see the world the terrorists would like to

¹¹ Bush, 'Proclamation 7513'

impose on the rest of us": this fight for freedom knows no borders, "fighting brutality against women and children is not the expression of a specific culture; it is the acceptance of our common humanity -- a commitment shared by people of good will on every continent".¹² The oppression of women is essentialised in the presentation of the terrorist threat, and freedom, rights, dignity, and humanity coalesced in a righteous war. Categorised through gendered notions of weakness and submission, this is compounded by a racialised, Islamophobic assumption of barbarity and danger, along with a need to be schooled in freedom and policed for the greater good, a paternalistic duty.¹³ The Taliban's treatment of women placed human rights squarely in the limelight, while again focusing upon a very specific facet of rights discourse. Indeed, the presentation of women and children as these vulnerable, weak victims to-be-liberated by the masculine saviour of the US - fighting for the dignity and rights of women - is not only highly gendered, but also racialised; an Islamophobic lens presents Muslim women as the veiled and silent oppressed against the barbaric terrorist male, driven by extremist ideology to commit a suicide attack for the reward of ethereal virgins.¹⁴ Days before the signing of the Bonn agreement, Time magazine's expose 'Lifting the Veil' detailed the "brutalising" of Afghan women, while looking toward the new future that had been opened through intervention. Analyses of the gendered (in)security logics that pervades the peace building project of Afghanistan, whereby women are inherently insecure and vulnerable, have used feminist critical security to expose the continuing consequences of such a masculine logic of protection.¹⁵ Thus, in the liberal drive to war and the peace-building process begun in December of 2001, human rights were present and prominent from the beginning. The presentation of a civilisational duty bore by the West, but with universal implications, fused the oppression of women with (inter)national security. How we frame these rights - once placed upon the agenda of sovereign legitimacy - shapes the state that is to be built in its place.

The significant WMD threat (potentially) posed by Saddam Hussein was undoubtedly the central component of the Bush and Blair push for war: the extent of the threat then discredited in the 45-minute claim and sexed-up dossier, the death of David Kelly, and the lack of WMD after the invasion. However, the issue of human rights did not enter the fray only after these revelations, as a convenient moralising discourse, but was present from the outset in the effort to place Iraq upon the agenda of the War on Terror. The trope of the irrational rogue, who cannot be trusted was deployed from the beginning. Addressing the UN General Assembly in 2002, Bush detailed the threats to human dignity which were facing the international community - specifically from Iraq - and presented a complex and integrated threatscape which included ancient ethnic and religious conflicts, terrorism, and

¹² Laura W. Bush, 'Radio Address: Taliban Oppression of Women' Crawford, Texas (17 November, 2001)

¹³ Craig Considine, 'The Racialization of Islam in the United States: Islamophobia, Hate Crimes, and "Flying while Brown"' in *Religions* Vol. 8 No. 9 (2017) pp.1-19

¹⁴ Kim Berry, 'The Symbolic Use of Afghan Women in the War on Terror' in *Humboldt Journal of Social Relations* Vol. 27 No. 2 (2003) pp.137-160

¹⁵ Hannah Partis-Jennings, 'The (In)Security of Gender in Afghanistan's Peacebuilding Project: Hybridity and Affect' in *International Feminist Journal of Politics* Vol. 19 No. 4 (2017) pp.411-425

poverty. Hussein's regime in Iraq was the manifestation of each, in the most aggressive form, seemingly the kind of threat the UN was founded to tackle. Hussein's threat was placed within the context of the US and UN interaction with Iraq from the 1990 invasion of Kuwait - in terms of their continual flouting of resolutions (without reference to the devastation of sanctions). This 'outlaw' character was compounded through reference to Hussein's abuse of human rights: "the UN commission on human rights found that Iraq continues to commit extremely grave violations of human rights and that the regime's repression is all-pervasive".¹⁶ Bush relays the widespread abuses against Iraqi citizens, including torture and indefinite imprisonment, as well as violence against women and children as a horrific spectacle to their families. The liberation of Iraqis from tyranny by the US, who were committed to rights and dignity, linked the war in Afghanistan to the potential war in Iraq. In a 2002 address on Iraq in Cincinnati, Bush presented the dramatic improvement that could be realised in the lives of Iraqi's, "just as the lives of Afghanistan's citizens improved after the Taliban", comparing the dictatorship of Saddam to that of Stalin. Similar to the portrayal of the Taliban's Afghanistan, violence and sexual brutality toward women and children were a focal point in the presentation of the tyrannical reign.¹⁷ Indeed, the inherent good of overthrowing this regime was rhetorically framed by Bush as a question that could not be denied, certainly not to those who had been liberated, "and surely to anyone who cares about human rights and democracy and stability in the Middle East".¹⁸ The liberation of the Iraqi people, and the progress of freedom's march, was stressed throughout, which presented any dissenter to the intervention and subsequent occupation as implicitly (or even overtly) supporting the widespread oppression and violence of Saddam, and therefore against democracy, human rights, and stability.¹⁹

There is no Alternative: Neoliberalism as Containment

Beyond the protection of women, Bush proclaimed the US national ambition to be "the spread of free markets, free trade, and free societies". The freedom of peoples generally was mutually constitutive with the freedom of capitalist accumulation. David Harvey recognises the possibility of various and competing articulations of rights, as well as the use of claims to rights and justice as cloaks for the power relations in subjugating these alternatives. Claims to rights produce the rights-bearing-subject, as well as those excluded, and further, affirm particular political and economic systems understood to be most free. Harvey recognises the existence of complex and contradictory "bundles of rights", which largely follow the inside/outside distinction of IR, also informed by hierarchies of

¹⁶ George W. Bush, 'Address to the United Nations General Assembly', New York (12 September 2002)

¹⁷ George W. Bush, 'Remarks by the President on Iraqi Threat', Cincinnati Museum Center - Cincinnati Union Terminal, Ohio (7 October 2002)

¹⁸ George W. Bush, 'Remarks by President Bush to the Australian Parliament', The Australian Parliament House, Canberra (22 October 2003)

¹⁹ Mary E. Stuckey, Joshua R. Ritter, 'George Bush, <Human Rights>, and American Democracy' in *Presidential Studies Quarterly* Vol. 37 No. 4 (December 2007) p.657

international power - for example, the US is able to renege on international law practices such as the International Criminal Court while vilifying and insisting upon the trial of 'war criminals' from other nations. The specific "bundle of rights" which underpins neoliberalism are those "necessary for capitalist accumulation": "we live, therefore, in a society in which the inalienable rights of individuals (and, recall corporations are defined as individuals before the law) to private property and the profit rate trump any other conception of inalienable rights you can think of".²⁰ Neoliberalism being dependent upon the spread of markets, necessarily entails a global world-view, and the discourse of 'inalienable rights' hides the power structures that are inherent in the triumph of a particular 'universal'. Within this logic, freedom demands the protection of private property, and the existence of an arena in which to earn that wealth: there is no space or recourse to recognise structural barriers that can hinder individuals, communities, or nations from accessing such privileges.

Within this specific 'bundle of rights' which would perpetuate human freedom, Bush identified 'economic rights'. Speaking on the 100th anniversary of Cuban independence, Bush claimed that "political and economic freedoms go hand in hand", arguing that any liberalising of the political system of the Castro regime would pose deep issues in the economic, thereby associating economic freedom with the freedom of the market.²¹ Critiquing the human rights record of the Castro regime, Bush also refers to the state's "stranglehold on private economic activity".²² The successful state under the neoliberal perspective is one in which state intervention is limited to the maintenance of free trade, free markets, and the rights to private property.²³ Human rights as individual rights, associated with the promotion of entrepreneurial skills and private investment with as little state intervention as possible - the legal, policing, and military apparatus established to ensure this relationship - places the proper functioning of markets and money as apolitical, that is, free of the political manipulations of the state. Neoliberal freedom involves the proletarianisation of the people. Cuba was posed as the opposite of freedom and respect for rights.

The linking of terrorism, poverty, and a lack of freedom is directed toward particular state types, without recognition of the position on the global periphery as exacerbating such problems. In contradistinction to the realm of liberty, with the US at the helm, the terrorists and tyrants who protect them are portrayed as unable to light the creative fires of freedom, and thereby driven to fear and violence. This war for freedom then does not stop at the countering of terror: "the vision is also threatened by the faceless enemies of human dignity, plague, starvation, and hopeless poverty. And America is at war with these enemies as well".²⁴ The states of scarcity that illicit hunger and poverty are rendered 'faceless' which had also been ascribed to the perpetrators of the terror attacks on 9/11, the unseen

²⁰ Harvey, *Neoliberalism* p.181

²¹ George W. Bush, 'Remarks by the President on Cuba Policy Review', White House (20 May 2002)

²² Bush, 'Cuba Policy Review'

²³ David Harvey, *Neoliberalism*

²⁴ George W. Bush, 'Remarks by the President in Commencement Address to United States Coast Guard Academy, Cadet Nitchman Field, Connecticut (21 May 2003)

element is crucial to the justification of preemptive action - Rumsfeld's knowns and unknowns - which will be elaborated upon later. Further, this association of the 'faceless' does not at all consider these hardships in light of relations of accumulation: rather, suffering is distanced from the US, and from any form of capital, through an equation with terrorism and tyranny. Indeed, democracy and markets are solely understood as the antidote to all of these related assaults upon humanity. While the Bush administration explicitly wrote in the NSS02 that poverty did not have a causal link to terrorism, there was a correlation in the spaces where extremist resentment was bred: "Poverty, weak institutions, and corruption can make weak states vulnerable to terrorist networks".²⁵ Following the interventions in both Afghanistan and Iraq, in the initial stages of state- and peace-building, the discourse of rights and freedoms were enshrined constitutionally, understood to be enabling the opening of new markets and therefore the spread of freedom (and peace).

The processes of liberal peacebuilding in areas affected by conflict, has been understood by Goodhand and Sedra as "the simultaneous pursuit of conflict resolution, market sovereignty, and liberal democracy".²⁶ The problematising of the state informs the state to be built. The Bonn agreement passed on the 5th of December 2001 was a series of provisional arrangements, signed by prominent Afghans with UN oversight, in order to begin rebuilding (or perhaps in the case of Afghanistan it is more fitting to say establishing what is recognised as) a sovereign state. While recognising the importance of statehood in "reaffirming the independence, national sovereignty and territorial integrity of Afghanistan", the first aim of the agreement is the affirmation that the participants are "determined to end the tragic conflict in Afghanistan and promote national reconciliation, lasting peace, stability and respect for human rights in the country".²⁷ Successful sovereignty, that carries the norm of autonomy, can only then be achieved through the respect for human rights, related to peace, reconciliation of internal divisions, and lasting peace. When the Afghan constitution was ratified in 2004 under the government of Hamid Karzai, the type of state that was to be built from this site of failure was sketched out. The unsettling of sovereignty that is inherent in the problematisation of failure and roguery, is accompanied by liberal logics of regime change and subsequent peace-building. Each of the three tenets identified above can be evidenced:

"The state shall be obligated to create a prosperous and progressive society based on social justice, preservation of human dignity, protection of human rights, realization of democracy, attainment of national unity as well as equality between all peoples and tribes and balance development of all areas of the country [...] The state shall encourage, protect as well as ensure the safety of capital investment and private

²⁵ United States, *National Security Strategy* (2002) Preface

²⁶ Johnathan Goodhand, Mark Sedra, 'Rethinking Liberal Peacebuilding, Statebuilding and Transition in Afghanistan: An Introduction' in *Central Asian Survey* Vol. 32 No. 3 (2013) p.240

²⁷ Afghanistan, *Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions* ('Bonn Agreement') S/2001/1154 (5 December 2001)

enterprises in accordance with the provisions of the law and market economy".²⁸ This new constitution envisioned a state combining the triumvirate of the 'free' state: market capital, democracy, and human rights. The same priorities of liberal state-building can be viewed in Iraq. The Iraqi constitution ratified in 2005, places the establishment of a 'modern' economy as a necessity of sovereignty: "The State shall guarantee the reform of the Iraqi economic in accordance with modern economic principles to insure the full investment of its resources, diversification of its sources, and the encouragement and development of the private sector".²⁹ Modernity is neoliberal. A postmodern developmental logic of international success, privileging the private over the statist, can then be installed as a matter of regime change. In spite of the deepening inequalities that are the consequences of neoliberal governance, that function across internal class divisions as well as global relations between the North and South in disenfranchising workers and violating indigenous rights, the US and its allies were portrayed as fighting for human rights and freedom, through the institution of systems enabling the free flow of capital. A successful state is a liberal democratic state, amenable to the spread of global markets. However, while the circulation of capital is an aim of international peace and security - under the assumption that countries who trade together do not fight each other - the circulations of unruly people, such as in terrorism, crime, or migration has to be contained.

The qualities of freedom, both economic and political, that had to be promoted and defended by the US found a telling articulation in the NSS02. Therein, three references are made to the recognition of property rights as a facet of human rights, one of which is explicitly aimed at the promotion of trade as a catalyst for processes of development, in fostering rights-respecting (therefore liberal democratic) nations.³⁰ While private property had been included in Lockean notions of rights, this assertion had not found a home in the covenants, or standard human rights discourse. This articulation of economic rights reflects the movement from a Keynesian inspired social-welfare, modernist, statist model, to the neoliberal. The 'freedom' that was continually associated with US values of democratic governance and capitalist market economy, where any deviance then thought to be 'unfree', had incorporated a right to consume, that is assured to the freedom of open markets.³¹ The change in capitalist relations from a dependency upon economic production toward the free circulation of capital and the right of consumption has been reflected in the development of international jurisprudence: Douzinas argues that this legislative shift can be read through the movement from law creation and the study of the operation of rights, to the circulation of norms and rights, a level of abstraction.³² This is a biopolitical modality

²⁸ Afghanistan, *Constitution of Afghanistan* (3 January 2004)

²⁹ Iraq, *Constitution of the Republic of Iraq* (15 October 2005)

³⁰ NSS02: "Promote the connection between trade and development. Trade policies can help developing countries strengthen property rights, competition, the rule of law, investment, the spread of knowledge, open societies, the efficient allocation of resources, and regional integration—all leading to growth, opportunity, and confidence in developing countries."

³¹ Stucky, Ritter, 'George Bush, <Human Rights>

³² Douzinas, *Human Rights and Empire*, p.115

of power, in which human life becomes the site of mechanisms of power, a relationship which can be illuminated through the neoliberal logics of global governance.

The dogma of neoliberalism is based upon the equality of choice, wherein everyone is free to choose from an ever-expanding pool of services and consumer products. However, this has disassociated freedom from equality, producing huge inequalities and further entrenching structural gulfs in the ability to exercise privilege and gain access to (social and economic) security and representation. Freedom of choice considers personal shortcomings as the failure to exercise that choice effectively, but the exercise of 'choice' is constrained by myriad limitations, which are not recognised in this freedom. The individual is said to be at fault and must then be schooled. Those Other, who are unfree and precluded from the benefits of economic and political wealth are then relegated to a past, a temporal state of pre-freedom. The fostering of obedience through education enforces a paternal, hierarchical relationship of tutelage.³³ The pedagogical pursuit of 'good choices' can be seen in domestic discourses of poverty - thinking about the distinction between the deserving and undeserving poor - as much as in fostering good state practice.³⁴ Anne Orford, distinguished professor of international law, has analysed the relationship of trade and human rights law, considering the biopolitical interventions of the World Trade Organisation in both Third World and post-Communist societies. Facilitating the 'right' kind of society for the implementation of trade agreements demands the creation of the 'responsible' subject capable of participating in a liberal democratic, capitalist polity, which is where human rights come in. Education is a site for the transmission of political, social, and cultural 'values' which facilitate entry into economic globalisation, such as "personal responsibility, freedom, and problem-solving skills". Questions of developmental progress are placed into a paternalistic pedagogy, wherein aid is tied to the everyday practices of health, sanitation, and reproductive rights, policing the production of the 'responsible'. Human rights law then "reinforces this process of producing the responsible subject of capitalist economics" wherein "bodies become the ground of political control, now exercised globally, and calculations of population control, the measurement of human development, public health policy, and the production of human capital are all capable of reformulations as human rights problems".³⁵ With regard to the freedom and rights that are tied to neoliberal, economic globalisation, Douzinas refers to the freedom of 'choice', as realising the proliferation of the same, of conformity, the same high street chains and fast food restaurants from which to conveniently consume. In the age of postmodern rights, the structural inequalities are masked by a language of choice, wherein the ability to make good choices must be taught and learned. Through the management of participatory and responsible life, the control, classification, and registration of individuals and populations is

³³ Bigo, 'Delivering Liberty and Security?' pp.408-410

³⁴ Robbie Shilliam, *Race and the Undeserving Poor* (Newcastle: Agenda Publishing, 2018)

³⁵ Anne Orford, 'Beyond Harmonization: Trade, Human Rights, and the Economy of Sacrifice' in *Leiden Journal of International Law* Vol. 18 No. 2 (2005) pp.209-211

streamlined and expanded.³⁶

This freedom is dependent upon global stability, threat conceptualised within an interdependent world. What is at stake, is the Western way of life. Transgressing territorial borders, this international security is one in which instability *out there*, will have adverse effects upon the quality of life *at home*. In this threatscape, the continued existence of unstable or failing spaces can weaken the global market or create breaks in the flow of commodity or energy, which can then have adverse effects in the everyday life of the domestic populations. Thus, rather borders to be defended it is *society* which is under threat. Impacting the biopolitical management of the population, the radical interconnectedness of the international demands the pacification of conflicting *ways of life*, facilitated through spaces of failure and roguery.³⁷ The war for freedom entails not only bombs and boots-on-the-ground, but an educative process of pacification. As capitalism becomes dependent upon consumption, rights discourse is articulated as the right to an untethered consumption of (very highly mediated) choice. This biopolitical logic of rescue from a pre-freedom - and the link to a global security in the War on Terror - can be exemplified in the Blair government's logic of a 'Defensive Empire'.

The Premodern State

Tony Blair's particular brand of liberal internationalism that had found rhetorical flourish in the Chicago Speech, and a receptive audience in the Clinton Administration, was prominent in the ideological framework of the War on Terror as a war to protect Western values, and to promote universal freedoms. Speaking in 2001 at the Labour Party Conference, Blair made the case for war with Afghanistan, also drawing reference to their poor record on human rights. The irrationality of those regimes which did not conform to international norms of civilisation and human rights framed the necessity for military force as Tony Blair declared "there is no diplomacy with Bin Laden or the Taliban regime", going on to state that justice would be served through the spread of democracy and freedom.³⁸ The rules of discourse and mutual trust are understood to not apply, which therefore translates into a legitimate use of force. Referring to the lack of a Security Council resolution to undertake military action in Iraq, Blair paradoxically refers to a global community of rights and responsibilities - apparently one that can flout the international institutions of peace and security. The failure is seen as a flaw in the institution. The Declaration of Human Rights is heralded as a "fine document" upon which to base the rules of global conduct as well as establishing "what is right or wrong in enforcing them", however Blair laments the reluctance of the UN to undertake this enforcement.³⁹ The US and UK are then presented as taking up the slack of international institutions; the implicit notion of this enforcement

³⁶ Douzinas, *Human Rights and Empire* p.129

³⁷ Duffield, *Development, Security, and Unending War* p.186

³⁸ Manokha, *Human Rights Enforcement* p.209

³⁹ Tony Blair, 'Speech in Sedgefield', Sedgefield, County Durham (5 March 2004)

responsibility is that the UN should be promoting 'our' - read, Western - values, that are not only superior but universal. Freedom and human rights form the thrust of legitimacy in intervention throughout the speech and Blair's discourse generally, (re)producing a fixed hierarchy of legitimacy. Further, the necessity of these values for Western security from terrorism is thus never explored in terms of the alienation emanating from the subjugation of other discourses. Indeed, Blair argues that "we should do all we can to spread the values of freedom, democracy, the rule of law, religious tolerance and justice for the oppressed, however painful for some nations that may be; but that at the same time, we wage war relentlessly on those who would exploit racial and religious division to bring catastrophe to the world".⁴⁰ Blair questions the composure of international law, which he argues limits action beyond dialogue, diplomacy, and sanctions until the designation of 'humanitarian catastrophe'. Echoing the Chicago speech, Blair ties human rights to Western security concerns, to a "self interest" that is dependent upon all nations, driving home that we are all internationalists now.

These calls for a new internationalism of universal (Western) values, were also informed by the thinking of Robert Cooper - a diplomat who still serves in the British government - which was laid bare in an essay 'The Post Modern State', released to the British press in the interim between the Afghanistan and Iraq wars. This call for a new liberal, and defensive imperialism, is a candid glance at the Blair government's international worldview. Sovereignty, or rather the problem of blanket sovereign autonomy in Third World nations, is placed in the crosshairs. As the name may suggest, a temporality of development is enforced, through reference to classical touchstones of IR theory. The postmodern is exemplified by the political system in Europe of the EU in Cooper's analysis; having transcended the characteristically (even a caricatured) immoral and brutal worlds of Hobbesian anarchy or Machiavellian statecraft, it is argued that the EU installs a radical mutuality which can transcend the border between domestic and international politics.⁴¹ Going down to the modern world, the threat and instability that remains at this level is painted in well-tread IR notions such as the balance of power, with particular reference to the management of nuclear capability. It is the 'premodern' world which Cooper argues challenges the theorisation of the international according to which the UK constructs foreign policy: this requires a fundamental re-theorisation, a rethinking of what is legitimate, possible, and even moral. The challenge posed to the distinction of domestic and foreign policy is a different one, it is an era of failed states: no longer fulfilling the Weberian formula of statehood, non-state actors - trading in terror, drugs, or crime - are able to operate in these disordered bases, territorially distinct but without the structure of a functioning state. The solution Cooper offers, may seem unsavoury but, he argues, the

⁴⁰ Blair, 'Speech in Sedgefield'

⁴¹ Cooper includes as postmodern states Canada and Japan, notably, questioning the possibility of the US due to their suspicion of mutual suspicion or rejection of interdependence. He also gives a nod toward future developments, "ASEAN, NAFTA, MERCOSUR and even OAU suggest at least the desire for a postmodern environment, and though this which is unlikely to be realised quickly, imitation is undoubtedly easier than invention".

postmodern world must "get used to the idea of double standards": while the postmodern world "operate on the basis of laws and open cooperative security", interactions with the premodern "we need to revert to the rougher methods of an earlier era - force, pre-emptive attack, deception, whatever is necessary".⁴² It is argued then that those living barbarously must ultimately be treated in kind, the language they understand, which Cooper frankly terms a relation of "defensive imperialism", and notes that the war in Afghanistan can be viewed in this light. The challenge is to produce an imperialism that can run alongside the cosmopolitan principles and human rights norms of the 21st century international imaginary.

Cooper presents two forms of postmodern imperialism. The first is "the voluntary imperialism of the global market".⁴³ Stressing the multiplicity of invested actors as indicative of this new flavour of imperialism, Cooper points to the emphasis placed upon the development of good governance, with failing states required to make themselves open to interference in order to receive assistance. Of course, the attribution of voluntary implies that there is a real alternative to membership. This fails to question the assessment of good governance, the role of those institutions and the global system of capital as productive of a global periphery. It assumes that the choice to undergo regulatory changes for the reception of assistance, with the alternatives being exclusion, possible sanctions, and even intervention, is truly a choice. Is this voluntary? Further, there is no recognition that those states who act as judge will ever be judged. Double standards indeed, the assumption of justice, morality, and legitimacy. Echoing the sentiments of Helman and Ratner, it is the decline of empire itself - the liberal disdain for the language and practice of imperialism - that Cooper deems to be the reason for the current chaos of the premodern: those left outside of the global economy become trapped in a cycle of disorder and perpetual degradation when liberal powers are too 'politically correct' (to use the parlance of the day) to interfere. Using racially provocative language, the double standard reflects the reality of the international, as Cooper argues that "among ourselves, we keep the law but when we are operating in the jungle, we must also use the laws of the jungle".⁴⁴ The second form of imperialism that is advocated is one which recognises the prominence of proximity, an imperialism of neighbours. Drawing upon the example of the bloody fracturing of former Yugoslavia, the imperialism of good neighbour-ship - thus creating a safe neighbourhood - Europe is said to have taken the reigns in creating "something like a voluntary UN protectorate in Bosnia and Kosovo" in what is considered a mutually beneficial relation.⁴⁵

The deficiencies that are held to constrain Third World sovereignties are attributed to their statis, rather than considering the operation of international law and economy as exacerbating these deficiencies, Third World states being forced into a system that was not written for them or with them, rather against. As Anghie has argued:

⁴² Robert Cooper, 'The New Liberal Imperialism' in *The Guardian* (7 April 2002) <<https://www.theguardian.com/world/2002/apr/07/1>>

⁴³ Cooper, 'The New Liberal Imperialism'

⁴⁴ Cooper notes these laws include "force, pre-emptive attack, deception, whatever is necessary to deal with those who still live in the nineteenth century world of every state for itself".

⁴⁵ Cooper, 'The New Liberal Imperialism'

"international law is created in part through its confrontation with the violent and barbaric non-European 'other'; and the construction of the 'other' and the initiative to locate, sanction and transform it disrupt existing legal categories and generate new doctrines regarding very significantly, sovereignty and the use of force".⁴⁶

The interdependency of good governance and economic prosperity is presented as a vicious cycle, whereby the poor management of a country precludes inclusion in the global market: "weak government means disorder and that means falling investment. In the 1950s, South Korea had a lower GNP per head than Zambia: the one has achieved membership of the global economy, the other has not".⁴⁷ This is once again a self-fulfilling metric of success. An alternative reading of this inclusive and apolitical magic market is articulated by Chomsky, who posits that the disastrous effects of the post-Bretton Woods on the developing world were escaped by the few "rejecting the 'religion' that markets know best": indeed, taking the East Asian miracle as the standard example of successful economies which did not follow the mapped route, South Korea was a rising star until it "was badly damaged after agreeing to liberalisation of finance in the early '90s, a significant factor in its current crisis".⁴⁸ The role of neoliberal, 'voluntary' economics is not investigated in terms of the gulf between the developed and developing worlds, nor in terms of the widening inequality gap within those developing nations. The superiority is taken for granted, without a space for considering alternatives that could improve lives across these differences, while all sharing the burdens of finance capital. This cosmopolitan, rights protecting, defensive, liberal imperialism is said to rest upon the principle of voluntary inclusion, which does not recognise the violent exclusion of those Other.

This is an extension of the conditioned 'inclusion' at the heart of liberal political thought, dependent upon exclusion and illiberal practices toward *some*. Cooper's intervention is perhaps one of the starker examples of the liberal logics of war and specifically the paradoxes therein, also including violence and interference. The place of war in each of the three temporal categories is presented as a permanent state of war - akin to the state of nature - in the premodern, the next step following Clausewitz's famous dictum, while in the final postmodern stage, war is a failing. Conceptualisations of liberal peace are central in unearthing the liberal relation to war; the expansion of liberal rule has been predicated upon the removal of war from the life of its citizens, as well as in the articulation of what constitutes a well-lived life. The inscription of limits upon civility, modernity, legitimacy, and rationality on an international scale, reinscribes the distinction where violence is legitimate, even for those who have transcended such base measures. The universal benefits of liberal rule - including the freedom from war enjoyed by its own - are expansive but only through the targeted (possibly violent) transformation of those premodern. This containment and conversion will then curb the unsanitary, dangerous, and antiquated ways of the developing, pre-modern. War is central to the constitution of Third World sovereignty

⁴⁶ Anghie, *Imperialism, Sovereignty, and the Making of International Law* p.274

⁴⁷ Cooper, 'The New Liberal Imperialism'

⁴⁸ Noam Chomsky, *Rogue States: The Rule of War in World Affairs* (London: Pluto Press, 2000) p.115

- these states are not characterised as mired in war, in distinction to the postmodern which is free of war, but their constant state of war which endangers international peace as well as the wellbeing and human rights of their citizens therefore sanctions the use of force by the pacific postmodern. The production of freedom is coalesced around the territorial nation state as rights-giver, and then along the lines of capital in which peoples are able to enjoy prosperity.

Democracy Promotion

Democracy promotion was a central strand of the Bush Doctrine. Informed by a neo-Kantian democratic peace philosophy, the administration diagnosed a correlation between a lack of democracy and the existence of terrorism within a nation. This not only disassociates terrorism from Western nations, but exclusively considers terrorism as emanating from *out there*, from the Others. Islamic governance - already considered threatening in their lack of secular separation and therefore premodern ideology - has been associated with the seeds of an extremist fringe possible of gruesome violence. Individuals, Muslim or otherwise, in the US (as well as in the UK and Australia particularly) are subject to profiling, surveillance, and other policing practices due to their apparent 'Muslim-ness', which renders them inherently suspicious.⁴⁹ These racialised assumptions of deviance, criminality, and irrationality have been mapped onto the international, while hiding the racist undertones, through the distinction between democratic allies, and the deviant regimes - the failures and rogues who endanger us all. In the construction of these spaces, terrorism was bred through bad governance, including human rights abuses, therefore forcible installation of a new government was necessary for (inter)national security. Such a discursive construction relies not only upon the charge of evil, but also upon the heralding of democracy as fundamentally good, pacific, and - importantly - as the *sole* solution, not only to global terrorism, but a host of pervasive problems, including poverty, disease, and conflict. The promotion of democracy is placed upon a trajectory of human history, whereby this is a process toward more freedom.

Democracy promotion was placed at the centre of the Bush foreign policy agenda. As has been shown above, freedom - as an inherently human value - was tied to human rights, 'political freedoms' of democratic governance, and 'economic freedoms' of markets. The urgency of democracy in the Middle East was elaborated by Bush in a 2003 speech on the 20th anniversary of the NED on global democracy and freedom, lamenting that "sixty years of Western nations excusing and accommodating the lack of freedom in the Middle East did nothing to make us safe, because in the long run stability cannot be purchased at the expense of liberty. As long as the Middle East remains a place where freedom does not

⁴⁹ Narzarin Massoumi, Tom Mills, David Miller (ed.) *What is Islamophobia? Racism, Social Movements and the State* (London: Pluto Press, 2017); Arun Kundnani, *The Muslims are Coming!: Islamophobia, Extremism, and the Domestic War on Terror* (London: Verso, 2014)

flourish, it will remain a place of stagnation, resentment and violence ready for export".⁵⁰ The allusion of sixty years is a nod toward the postcolonial status of the construction of the 'Middle East', without any concession to its place upon the global periphery of a system created around these 'nations', other than to acknowledge, a la Ratner and Helman, the concessions, presumably to self-determination at the cost of 'freedom'. Bush is adamant that this is not inherently tied to Islam, and indeed "Muslim men and women are good citizens of India and South Africa, of the nations of Western Europe, and the United States of America".⁵¹ Suggesting Muslims can be good citizens when they reside in 'good' states. Looking at a historical trajectory toward the recent explosion in democracies and placing the US within this as the most powerful nation, Bush cites two developments of note to historians: "the advance of markets and free enterprise helped to create a middle class that was confident enough to demand their own rights. They will point to the role of technology in frustrating censorship and central control".⁵² Thus, democratic governance is tied to an economic empowerment which fuels a movement for 'rights' - rights being explicitly understood as individual rights. Further, technology is again associated with modernity and rationality, the ability of people to know and understand 'the Truth'. Bush then explicitly goes on to list the "essential principles common to every successful society". Success being linked to the limiting of state and military power, the rule of law, the protection of civic institutions, religious freedom, the prohibition of corruption, recognition of the rights of women, and also - "successful societies privatize their economies, and secure the rights of property".⁵³ This can be read as some semblance of a road map to success. Success is read as integration into an international community with pre-written rules, which is freedom according to liberal economy. That is freedom of movement for capital, goods, services, information, and (some) people. Those state or community forms which do not adhere to this circulation cannot succeed. The successes of Afghanistan and Iraq is then based upon an international process of education. In Iraq, Bush declares the sacrifice of aid workers from all over the globe, as well as the work of the NED in "promoting women's rights, and training Iraqi journalists, and teaching the skills of political participation".⁵⁴

The Bush administration launched the flagship development programme in 2004, the 'Millennium Challenge Account': a unilateral organisation to tackle global poverty, this aimed "to provide such assistance in a manner that promotes economic growth and the elimination of extreme poverty and strengthens good governance, economic freedom, and investments in people".⁵⁵ Through the favouring of bilateral contracts, USAID contribution was increased, but this made countries compete for these funds. In order to receive aid, the

⁵⁰ George W. Bush, 'Remarks by the President at the 20th Anniversary of the National Endowment for Democracy', United States Chamber of Commerce, Washington DC (6 November 2003)

⁵¹ Bush 'Remarks on 20th Anniversary of the National Endowment for Democracy'

⁵² Bush, 'Remarks on the 20th Anniversary of the National Endowment for Democracy'

⁵³ Bush, 'Remarks on the 20th Anniversary of the National Endowment for Democracy'

⁵⁴ Bush, 'Remarks on the 20th Anniversary of the National Endowment for Democracy'

⁵⁵ United Nations, 'Millennium Challenge Act of 2003' 22 USC Ch. 84: MILLENNIUM CHALLENGE (2003) §7701. Purposes

recipient countries would have to be accountable to the US, as well as to adopt three principles of rule: good governance, including human rights; health and education of the people; and "sound economic policies that foster enterprise and entrepreneurship".⁵⁶ Developmental aid was thus thrust toward the promotion of democratic governance, free markets, and individual rights. The determination of a country that is worthy of aid is determined through reference to 17 indicators, provided by organisations including Freedom House and the World Bank. Development and security were therefore linked to the development of free market democracies in the provision of aid. For those countries who do not qualify for aid, this marks a further exclusion from the global economy, whereby "their foreign investment and international trade decline; their citizens get poorer"; in failing to meet the formulaic accountability, these spaces of heightened vulnerability, across Sub-Saharan Africa, the Middle East, and Latin America, can then be subject to a brutal "Kalashnikov capitalism" in the words of Michael Mann, where "the people get poorer, lose their human rights, and fall to disease and famine".⁵⁷

The promotion of democracy, not only in the Middle East but as a grand strategy of the US, was linked not only to development, but to the indiscriminate and unbounded threat of terrorism. Thus, the interventions were a security measure. Promoting democratic governance in those spaces of deviancy will not only stop the activities of terrorists, but also to stop the refugees and migrants fleeing the Third World 'state of nature'.⁵⁸ The 2006 *Strategy for Winning the War on Terror* heralded democracy as the long-term strategy for countering terrorism, regional conflict, and ensuring global stability.⁵⁹ The promotion of 'effective' democracies, as responsible international members, was envisioned as ending tyranny; the definition of 'effective democracies' as laid out in the strategy encompasses human, territorial, and capital aspects of sovereign statehood, as they must "honor and uphold basic human rights", "exercise effective sovereignty and maintain order within their own borders", as well as "limit the reach of government".⁶⁰ These speak to the fundamental tenets that comprise the Bush administration agenda for peace. An assessment of regime type as an indicator of vulnerability and danger is tied to freedom as the ultimate weapon in a war of ideas, as the strategy also advocates supporting "moderate and modern government, especially in the Muslim world, to ensure that the conditions and ideologies that promote terrorism do not find fertile ground in any nation".⁶¹ This associates terrorism not only with the undemocratic Islamic world, but Islam with archaic and fanatical or

⁵⁶ US Department of State, 'Millennium Challenge Account: A New Compact for Global Development' in *Economic Perspectives* Vol. 8 No 2 (March 2003) p.33

⁵⁷ Michael Mann, *An Incoherent Empire* (London: Verso, 2003) pp. 55-56

⁵⁸ Shilliam, 'Haitian Revolution' p.784

⁵⁹ United States, *The National Security Strategy of the United States of America* (Washington DC: President of the US, 2006) [NSS06 hereafter] "Because democracies are the most responsible members of the international system, promoting democracy is the most effective long-term measure for strengthening international stability; reducing regional conflicts; countering terrorism and terror-supporting extremism; and extending peace and prosperity". p.3

⁶⁰ NSS06 p.4

⁶¹ NSS02 p.6

extremist governance. Calling for moderate and modern Islamic government presupposes the religion to be violent, wild, unpredictable as well as archaic. The call for a territorially contained exercise of 'effective sovereignty' also speaks to the logics of containment of the Third World, in the assertion of underdevelopment as inherently dangerous. This threat presented yet another dangerous flow from the Global South to the North, where the North must intervene in order to secure the territorial integrity of those developing nations, therefore also securing themselves.⁶² By linking democracy not only to development, but to the indiscriminate and unbounded threat of terrorism, the promotion of 'self government' in Iraq and Afghanistan - interventions in sovereign spaces in order to institute governments amenable to the ordering of capital - is a security measure.

Irrational; Success, Failure, and the Axis of Evil

How is it that the world's most powerful state military, economically, politically and culturally, can be so threatened by such weaker opponents? Portrayed as chaotic, anarchic, and inhumane, these spaces are an irrational, therefore unreasonable and unpredictable, force. With the advent of WMD that could get into the wrong hands - of non-state actors who cannot be deterred - the US cannot play by outmoded rules. The NSS02 inextricably linked 'rogue' and 'failing' states to a possible, future insecurity of unpredictable magnitude that legitimated the use of (if necessary, preemptive) force. The contingent nature of the threat dictated the need for swift, violent action and neutralisation in the name of collective security (of species life). The robust understanding of 'rogue state' presented in the NSS02 elaborated five bullet points of shared characteristics that outline the behaviour of a 'rogue', an outlaw of the international: they "brutalise their own people" and focus only upon the personal gain of elites; disregard the constraints and mutual respect for international law; are aiming to gain WMD; sponsor terrorism; and finally, "reject basic human values and hate the United States and everything for which it stands".⁶³ Thus the US is the pinnacle of human civilisation, and freedom, the target of the roguish hatred: the US has a monopoly on basic human values. The danger cannot be neutralised merely through a concerted effort to constrain their acquisition of WMD, as the question becomes how to constrain one who does not recognise any form of law, and who harbours such a hatred? Such an understanding of the enemy then constrains possibilities for response. War and regime change to democratic rule are the only certainties for lasting peace.

The insertion of Iraq into the broader War on Terror, was in part possible through the demonisation of rogue regimes and their association with harbouring networks of terrorists: Bush polemicised against states sponsoring terrorism, and the unimaginable consequences if they could acquire increased fire power, singling out North Korea, Iran, and Iraq as examples. He conflated these states, "and their terrorist allies", into what was termed an

⁶² Brad Evans, *Liberal Terror*, pp.160-164

⁶³ NSS02 p.14

"axis of evil, arming to threaten the peace of the world".⁶⁴ The War on Terror, implemented as a response to what were interpreted as 'acts of war' on 9/11, truly had a global reach, and specific targets had been identified.

James Mann explicated the numerous purposes that were served with the axis-of-evil speech. Not only did it highlight the fear of terrorist acquisition of nuclear, biological, or chemical weapons; it also shifted the focus from the elusive task of capturing individual terrorists – such operations had historically been a weakness of the American military – to the traditional strengths of dealing with the conventional state system. Furthermore, it linked the War on Terror with the established aim of blocking the spread of weapons of mass destruction.⁶⁵ The strategic vision of the War on Terror offered by the George W. Bush administration, while grounded in long-standing colonial and cold-war era Western geopolitical conceptions, has been a catalyst for an expansion in geographies of security which continued to inform counterterrorism practices and dominant discourses of threat and risk existing in the Obama administration. The global is taken as referent object of strategies of security – mapping spaces of control to protect not only the national homelands but the liberal transnational project of perpetual peace through the expansion of liberal governance and economics. The rhetoric of the 'failing' state too cements this spatialised conception of threat, or of terror, as Christian Olsson notes in his investigation of the relation of war and the political manifest in the interventions undertaken in the Global War on Terror. The notion of the failed state necessarily emphasises its counterpart, the successful sovereign state and gained traction in legitimising intervention in the Cold War context to stave off communist insurgency. Post 9/11, a liberal notion of the failed state justifies intervention in the construction of the 'true' and 'universal' successful Western state. The object of military engagement was therefore to foster a liberal polity through the diffusion of norms and the biopolitical management of populations.⁶⁶ Shifting conceptions of the nature of modern warfare, evidenced in the ascension of counterinsurgency strategy into US army doctrine in 2006 and subsequent recognition in US military and national security planning of the prevalence of low-intensity conflicts, promote the biopolitical separation of 'safe' and 'dangerous' modalities of life at the global, regional, and local level of American operations.

The logic of preemption underlying the national security strategy traditionally hinged upon the key factor of imminence. However, the very existence of such unstable, inhumane states is said to pose a possible, future threat. This reformulation is based upon the claim of a rupture in history, and the need of a radical reimagining of justice to tackle the radical risk, Rumsfeld's 'unknown unknowns'. This doctrinal posture extends to the individual revocation of human rights of those deemed to be 'terrorists' or 'unlawful enemy combatants',

⁶⁴ Bush, 'State of the Union Address' (2002)

⁶⁵ James Mann, *Rise of the Vulcans: The History of Bush's War Cabinet*, (London: Penguin Books, 2004) pp.318-319

⁶⁶ Christian Olsson, 'Military Interventions and the Concept of the Political: Bringing the Political Back into the Interactions between External Forces and Local Societies' in *Terror, Insecurity and Liberty: Illiberal Practices of Liberal Regimes after 9/11* (ed.) Big, Tsoukala (London: Routledge, 2008) pp.152-154

typically operating in the 'safe havens' of such ungoverned space. In response to controversy surrounding the use of German airbases in CIA rendition flights, Condoleezza Rice argued that rendition had become a legitimate tactic of national security strategy and were in fact, also preemptive strikes.⁶⁷ Both temporal and geographic boundaries previously held in the laws of war have become amorphous. Beyond the battlefields of military intervention in Afghanistan and Iraq are complex networks of (in)security that reconfigure notions of international and internal law, sovereignty, and territorial borders, with the US at the centre of this universalised liberal war – rendering spaces and bodies, failures, rogues, and unlawful combatants, as a possible security threat in their very existence, subject to intervention.

Preempting the Mushroom Cloud: Stretching Imminence

The final aspect of the Bush Doctrine to be considered is the legitimisation of preemptive action against another sovereign state. The stretching of the concept of 'imminent threat' entailed a temporal problematisation of the mutuality that is afforded to sovereignty. To elaborate, we can turn once again to Kant and the outline of a Perpetual Peace. Discussions on the Kantian underpinnings of the (neoconservative and beyond) worldview, are largely restricted to the positively pacific nature of democratic peace; however, Kant also addressed the dangers of the 'lawless state', and the related question of confrontation. Kantian transcendentalism was the target of Immanent Critique, and this rooting out of contradiction could be applied to the logics of anticipatory self-defence, which are supported through an extended notion of 'imminence'. Outlining the international of perpetual peace, Kant discussed the (temporal) relationship between injury and war in dealing with states outside of the zones of peace. The mutuality of international society, where no state would harm another absent direct injury, can only be afforded to those who have established domestically a 'civil law'. The constitution of a 'responsible' sovereign then assures the security of all actors. The notion of injury, where a negative action must first be cast, is moved forward in time when considering the lawless. That is, injury - or the very possibility of it - is inferred in the existence of those deemed untrustworthy: "Man (or the people) in the state of nature deprives me of this security and injures me, if he is near me, by this mere status of his, even though he does injure me actively (facto); he does so by the lawlessness of his condition (state iniusto) which constantly threatens me".⁶⁸ As these states are a source of constant insecurity, Kant argues that they must either be 'compelled' to establish civil law, or to be removed from the neighbourhood completely. The diagnosis of 'lawlessness' - without considering the possibility of other configurations of domestic law - then entitles the transgression of the law for those lawful nations, in (legitimate) self-defence: if the lawless cannot be trusted as a neighbour, the lawful must act first.

⁶⁷ David Holloway, *9/11 and the War on Terror* (Edinburgh: Edinburgh University Press, 2013) p.50

⁶⁸ Kant, 'Perpetual Peace'; also Anghie, *Imperialism, Sovereignty, and the Making of International Law* pp.295-296

International law can be used by the makers to transcend law in their conflict with the lawless. Throughout this chapter, we have seen the culmination of various debates upon what constitutes a civil state, and indeed, the lawless. The Bush administration's formalisation of anticipatory self-defence draws upon a figure of problematised sovereignty - the rogue state - which in its defiance of international law, inherently threatens the international itself. The now-infamous phrase used by Condoleezza Rice summed up the fear of inaction in the build-up to the war in Iraq: "We don't want the smoking gun to be a mushroom cloud".⁶⁹

The questioning of sovereign autonomy being questioned in such a formal articulation caused some reflection in the Bush cabinet. Even Kosovo had been legitimate but remained illegal. While sovereign autonomy has always been a privilege of some states, a doctrinal stance of preemption legislates for interference. In a memo of the Office of the Secretary of Defense, the relationship between 'Sovereignty and Anticipatory Self Defense' was placed under scrutiny. It is recognised that the policy of preemption has huge implications for international relations, and particularly upon the notion of sovereignty. The commitment of the US to "traditional conceptions of sovereignty" is considered from the standpoint of US sovereignty, and the fear of external influence (a long-standing angst). Using the example of the International Criminal Court jurisdiction, and the US rejection of this external influence in US domestic affairs, it is framed as a violation: "Our key political values - democratic self-government and the protection of individual rights can be safeguarded only if the U.S. remains a sovereign state".⁷⁰ However, it is due to this political make up, that the US should not, and cannot, be interfered with. The importance afforded to sovereignty is understood to carry two important exceptions: the first, is the power of human rights norms, said to apply even to those who are not signatories; even more "compelling" however, is the danger of WMD.⁷¹ The existence of terrorists and powerfully armed tyrants who are irrational, lawless actors, demands action beyond deterrence. This stretched notion of imminence has been one of the most pressing challenges to just war theory and was an integral component in the Obama administration's discursive legitimisation of the expanded drone wars. Insisting that a radically changed threatscape was facing the US, it was argued in the NSS02 that "we must adapt the concept of imminent threat to the capabilities and objectivities of today's adversaries"⁷²; the broader concept of imminence evoked by the Obama administration relied upon the problematisation of spaces that had been foundational tenets of the Bush doctrine.

Countering Continuing, Imminent Threat: Ending the Forever War

⁶⁹ Wold Blitzer, 'Interview with Condoleezza Rice' CNN (8 September 2002) <http://transcripts.cnn.com/TRANSCRIPTS/0209/08/le.00.html>

⁷⁰ OSD Policy, 'Sovereignty and Anticipatory Self-Defense' (24 August 2002) Access - Rumsfeld Papers, Category: George W. Bush Secretary of Defense (21) - 2002, Type: Memos and Reports, p.2

⁷¹ 'Sovereignty and Anticipatory Self-Defense'

⁷² NSS02 p.15

In a letter of justification to the UN Secretary General delivered by then US representative Samantha Power - famed humanitarian intervention advocate - reference was made to a controversial and novel formula in international law - the unable or unwilling test. This test attempts to establish criteria whereby if a state cannot or will not pacify a non-state actor within their territory, a possibly threatened state can act in accordance with Article 51. Justifying the launch of an air campaign against Daesh in Syria, it was claimed that "states must be able to defend themselves", even preemptively, when the Other is unable or unwilling to maintain order, and "the Syrian regime has shown that it cannot and will not confront these safe havens effectively itself".⁷³ According to this test then, the domestic character of a state can be assessed in regard to their future *potential* of threat, and be deemed unworthy of the sovereign right of non-intervention. Sanitised, comparative language - such as unable or unwilling - regards the problems of the Global South as threatening to the North: the latter comprising the unproblematised successful - read as, able and willing, 'responsible' states. This situates disorder in the developing world, thus legitimising the deployment of bio- and thanatopolitical structures - through the entanglements of human rights, security, and development - in order to contain such instability, ultimately to carry out the policing action of pacification. In an analysis of the 'unwilling or unable' doctrine across the contextual applications of counterterrorism and responsibility to protect, Bode has noted that the conceptual ambiguity rendering decision-making unaccountable is compounded by the lack of designated authority, as the uses of force have been justified through reference to the right to self-defence.⁷⁴ The reference to self-defence renders the intervened state as a security threat not only to their own people but to the intervening state: human rights norms are integral in the presentation of this spatially and temporally amorphous threat. Critically engaging with the 'unable or unwilling' doctrine is engaging with a liberal debate regarding the erosion of sovereignty within a more expansive agenda of humanitarianism. This doctrine is a particularly dynamic example of the simultaneous transcendence of the state - for the legitimate - and the reaffirmation of the nation-state international structure. Lisa Monaco, the counterterrorism and homeland security advisor to Obama, stressed that the contemporary threatscape is "broader, more diffuse, and less predictable than at any time since 9/11", and later, while discussing Daesh, warned, "there must be no safe haven for these killers".⁷⁵ What exactly determines a terrorist suspect, these 'killers'? Part of this determination of where illiberal force is legitimate, where everyone is a suspect, is included in identifying the nature of these 'safe havens'. The unable or unwilling state is the latest in a series of articulations of post-colonial spaces - weak, quasi, collapsed, outlaw, backlash, fragile, failed, and rogue.

⁷³ Samantha Power to Ban Ki-Moon, Letter on the Subject of Syria (23 September 2014) <<http://opiniojuris.org/2014/09/23/unwilling-unable-doctrine-comes-life/>>

⁷⁴ Ingvild Bode, "Manifestly Failing" and "Unwilling or Unable" as Intervention Formulas: A Critical Assessment' in *Rethinking Humanitarian Intervention in the 21st Century: Security and the Limits of Humanitarian Intervention*, (ed.) Warren, Grenfell (Edinburgh: Edinburgh University Press, 2017)

⁷⁵ Lisa Monaco, 'Evolving to Meet the New Security Threat' Kenneth A. Moscow Memorial Lecture, Council on Foreign Relations (7 March 2016)

In a speech delivered at Oxford University in 2013, Professor Harold Koh, serving as legal advisor to the State Department under Obama, discussed the use of drone technology, arguing that "the Administration should remember that the real issue facing us is not drones, but how to end the Forever War". Koh argued that the use of drones – disciplined through "transparency, consultation, and international standard-setting" – constituted a step toward this end.⁷⁶ The use of targeted drone strikes against individual "terrorist targets" is grounded in the doctrine of anticipatory self-defence and has become a flashpoint within broader debates on the boundaries of legitimate warfare and the implications of the terror threat on *jus ad bellum*. Imminence can be a slippery temporal term: an imminent event can be defined differently as something which is about to, or even is likely to, happen in the (very) near future, however, the certainty of this danger and the permitted timeframe of suspicion, is ambiguous and contested.⁷⁷ In the context of a temporally and geographically limitless war, the very existence of spaces of limited or broken governance from which transnational terror networks can operate are portrayed as posing an imminent threat, diluting this constraint to an ever-present imminence.

John Brennan, formerly chief counterterrorism advisor to Obama and director of the CIA, addressed the issue of targeted killing in a 2011 speech, 'Strengthening our Security by Adhering to our Values and Laws'. A common theme of the administration rhetoric referred to the superior legal and ethical framework that would guide this unfortunate security necessity. However, while championing such strict adherence as the only way to navigate the murky waters of targeted strikes against individuals, Brennan explained that "the question turns partially on how you define 'imminence'", claiming that Al-Qaeda's unconventional tactics, where the immediacy of danger is difficult to calculate, has garnered "increasing recognition in the international community that a more flexible understanding of 'imminence' may be appropriate".⁷⁸ When one cannot see the traditional markers of aggression, such as the amassing of troops on the border or the acquisition of arms, it is argued, the temporal constraints on threat assessment must be updated. The codification of a new legal framework was revealed in 2013 as a leaked Department of Justice White Paper exposed the legal justification presented by the administration for deadly strikes in a foreign country against a US citizen - without due process - who is a known Al-Qaeda leader (we shall return to 'known' later), taking into account both domestic and international legal frameworks.⁷⁹ Asserting that the president is able to act against Al-Qaeda and associated forces under the right of self-defence, the justification of targeted killing hinges upon three conditions: the determination of an imminent threat; that capture is unfeasible; and finally, that operations observe the laws of war, specifically referring to the principles of necessity, distinction, proportionality, and humanity. Providing some additional explication, referring

⁷⁶ Harold Koh, 'How to End the Forever War?' Oxford Union, Oxford (7 May 2013)

⁷⁷ Nom Lubell, 'The Problem of Imminence in an Uncertain World' in *The Oxford Handbook of the Use of Force in International Law*, ed. Weller (Oxford: Oxford University Press, 2015)

⁷⁸ John Brennan, 'Strengthening our Security by Adhering to our Values and Laws', Harvard School of Law, Massachusetts (16 November 2011)

⁷⁹ See Chapter 4.3.

to the changed nature of threat, the White Paper clarifies that the condition of an 'imminent' threat in fact "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".⁸⁰ This broadening of the concept fundamentally questions imminence as a limit, eschewing the need for certainty or immediacy.

Imminence is intended as the final legal constraint for anticipatory self-defence, whereby a threat is so great that, even though no strike has been struck, action is permitted. How far into the future can a potentiality be said to rest while a targeted killing remains as a legitimate defensive act? The temporal implications of imminence have constituted a central debate in the historical construction of the restrictions on the use of force. Both Cian O'Driscoll and Steven Barela, just war scholars, have investigated the intellectual history of anticipatory war in the context of the War on Terror. Preemptive self-defence has been a contentious issue, gaining attention from Thucydides to Bismarck, Hobbes to Vattel. Navigating the thin line between prohibiting force and elucidating exceptions has produced varied accounts and many ambiguities, resulting in a bifurcation of just war thinking during the late sixteenth and early seventeenth centuries that was in part fuelled by varied accounts on the justification of preemption.⁸¹ A central dispute in this bifurcation of just war doctrine has revolved around the notion of the justified fear as a standard for action, which has been understood as the distinction between prevention and preemption, and I will provide a (very) brief overview. Francis Bacon railed against the scholastic tradition, believing them to be too concerned with questions of moral guilt, thus rather inviting injury than immorality. Insisting upon the need for recourse to preventive war, Bacon provided a check upon this power with the concept of a 'Just Feare'. Three cases of a justified fear warranting action were elaborated: the actions of a state unsettling the balance of power; threats arising from a state that is, in its nature, hostile or rogue; and finally, states committing acts perceived to be aggressive, such as trade disruptions or alliance building. As O'Driscoll notes, Bacon understands the right of anticipatory war to come down to the assessment of danger in the foreseeable future, to whether the state has reasonable grounds of suspicion, determining the potential outcome. However, how far is foreseeable? If the threat of a rogue actor is perceived as continuing, is there a time to act?⁸² Acting upon suspicion translates as prevention.

Developing the logic of preemption, Hugo Grotius championed a standard of imminence. A central figure in the advancement of the philosophical tradition that is today recognised as the foundations of international law, Grotius also accepted the right to anticipatory self-

⁸⁰ Department of Justice White Paper 'Lawfulness of a Lethal Operation Directed Against a U.S. Citizen Who is a Senior Operational Leader of Al-Qa'ida or an Associated Force' (Document Leaked, February 2013) <<https://fas.org/irp/eprint/doj-lethal.pdf>>

⁸¹ See: Cian O'Driscoll, *The Renegotiation of the Just War Tradition and the Right to War in the Twenty-First Century* (Hampshire: Palgrave MacMillan, 2008) pp.27-50; Steven Barela, 'The Question of "Imminence": A Historical View on Anticipatory Attacks' in *Legitimacy and Drones: Investigating the Legitimacy, Morality, and Efficacy of UCAVs* (ed.) Barela (Surrey: Ashgate, 2015) pp.139-161

⁸² O'Driscoll, *Renegotiation of the Just War Tradition*, pp. 32-33

defence, but only with enforced strict temporal parameters: "War in defence of life is permissible only when the danger is immediate and certain, not when it is merely assumed".⁸³ Two centuries later, the Caroline affair of 1837 provides an early articulation of the practical application of this standard, and has remained a primary reference point, and returned to in defence of the Bush Doctrine of preemption.⁸⁴ A US steamer bearing the name Caroline that was being used to supply rebels, was attacked by the British, who claimed it as an act of self-defence. In the aftermath, the Secretary of State Daniel Webster formulated conditions by which a state could justify preemptive action, as long as there could be proven "a necessity of self-defence, instant, overwhelming, leaving no choice of means and no moment for deliberation".⁸⁵ While Article 51 of the UN Charter clearly requires a strike for a legitimate claim to self-defence, this precedent - known as the Caroline test - has remained as a touchstone for those claiming legitimate preemption, existing as a customary right to anticipatory defence. Correspondence between Secretary of Defense, Donald Rumsfeld, and General Counsel William J. Haynes II address the legal distinction between preemption, preventive self-defence, and anticipatory self-defence. Rather than an aberration in law, the Bush administration turned to international law, both customary and conventional, in search of continuity and precedence. While the Caroline case is evoked, there is also reference to more recent US practice said to demonstrate widespread recognition of a customary right. This includes the Cuban Missile Crisis, 1986 air strikes on Libya, the 1989 action in Panama, Clinton's order of missile strikes in 1993 on Iraqi Intelligence headquarters, and finally, 1998 missile strikes in Afghanistan.⁸⁶

What happens when the very existence of a state is deemed to be threatening, and individuals therein found guilty before any offensive action? The doctrinal response to 9/11, written in preparation for the war in Iraq, insisted that the radical potential of the possible danger, where non-state actors could attain weapons of mass destruction from unstable areas, had shifted the borders of imminence. In a 2004 press interview, Bush claimed that "when we see a threat, we deal with those threats before they become imminent. It's too late if they become imminent. It's too late in this new kind of war".⁸⁷ Echoing Bacon's incredulity at the insistence one must always wait for an attack before striking, this threat assessment appears to call forth a doctrine of Just Terror. The temporality of imminence is fundamentally thrown into question, as overhanging, immediate danger waiting to strike became the need to stave off threat before any possibility, before it becomes unbearable and uncontrollable: "as a matter of common sense and self-defense, America will act

⁸³ Hugo Grotius quoted in Barela, 'The Question of "Imminence", p. 150

⁸⁴ Condoleezza Rice quoted in David Sanger, 'Beating them to the Prewar' <http://www.nytimes.com/2002/09/28/arts/beating-them-to-the-prewar.html> (28/11/2002) (need to find the quote),

⁸⁵ Onder Bakircioglu, *Self-Defence in International and Criminal Law: The Doctrine of Imminence* (London: Routledge, 2011) pp. 138-139

⁸⁶ General Counsel of the Department of Defense, 'Anticipatory Self-Defense', Memo for Secretary of Defense from William J. Haynes, General Counsel (2 August 2002) Access - Rumsfeld Papers, Type Memos and Reports

⁸⁷ George W. Bush, 'Interview with Tim Russert Broadcast on NBC's "Meet the Press" (7th February 2004)

against such emerging threats before they are fully formed".⁸⁸ To wait until an insecurity becomes a potential, it is already too late. Lisa Stampnitzky notes the blurring of the distinction between preemptive and preventive use of force in the Bush Doctrine, and Barela evidences the continued trend in the Obama administration as evidenced in the Department of Defense Dictionary. Until October 2009, there existed two separate entries: a preemptive action is defined as "initiated on the basis of incontrovertible evidence that an enemy attack is imminent", while preventive war as waged in "the belief that military conflict, while not imminent, is inevitable, and that to delay would involve greater risk".⁸⁹ The edition edited in April 2010 omits preventive war, and from March 2013 preemptive attack was erased from the pages.

With the move towards a dronified national security, extending the time restraints on defensive action has been justified through reference to a "continuing imminent threat": the stretching of imminence to a continuous state then heralds a constant suspicion, legitimising continuous surveillance, and a continuing right to launch a strike (as defensive action). In this "new kind of war", as Bush put it, demanding a new notion of imminence, how can the justness of a strike be measured: in other words, how can dangerous individuals, hiding among civilian populations, be identified and targeted before the emergence of an immediate threat in the foreseeable future? The Secretary General Eric Holder under the Obama Administration, elaborated in his 2012 speech, "international legal principles, including respect for another nation's sovereignty, constrain our ability to act unilaterally", but the use of force can be legitimate within these constraints if the target state is consenting, "or after a determination that the nation is unable or unwilling to deal effectively with a threat to the United States".⁹⁰ Ultimately, it is argued, the law should acquiesce in the face of 'failures' and 'rogues'.

⁸⁸ NSS02 Preface

⁸⁹ Lisa Stampnitzky, *Disciplining Terror: How Experts Invented Terrorism* (Cambridge: Cambridge University Press, 2013) p.173; Barela, 'The Concept of "Imminence"', pp. 156-157

⁹⁰ Eric Holder, 'Attorney General Address at Northwestern University School of Law' Chicago, Illinois (5 March 2013)

Chapter 4: Humanising War: Pacification as the “Normalised Security Framework”

4.1. Limiting War/Unlimited War

This chapter brings us to the final facet of the human rights regime of truth. Having explored what can and cannot be discussed under human rights, and the identification of the ‘problematic’ postcolonial spaces, this final movement explores the practices that are posed as solutions. At the close of the Cold War, the proxy wars of ideology gave way to a discourse of humanitarian rescue and protection in an increasingly interdependent world. In examining the problematisation of sovereign (post-colonial) space, I have touched upon the stretched temporalities and expansive geographies of contemporary warfare. The permanence of imminent and ubiquitous threat in the War on Terror depicts an unending war, where the amorphous threat of the unseen enemy demands an ‘everywhere war’.¹ As evidenced in the preceding chapter, the protection, promotion, and projection of human rights as a facet of international security policy has figured prominently in the discursive legitimisation of military operations across the 1990s and into the War on Terror. The perception and description of war-waging across political, academic, and media landscapes is revelatory of the universalising of threat, the contingent regarded as norm and the local as global. What practices are instituted as ‘humane’ in meeting this threat? If human rights abuse anywhere can be threatening to the US, then self-defence takes on a global and perpetual remit. We must ask how has war become an acceptable course in the protection of life: surely a paradoxical endeavour, to borrow a quip from a famous activist placard, “bombing for peace is like fucking for virginity”.

However, to place the blurring of war and peace as a distinctly novel phenomenon (re)produces an inherently Eurocentric historical premise, of a past peace that is periodically disrupted by official declarations of war: neatly delineated belligerence. Citing Agamben, Badiou, Negri, and Zizek, Neocleous identified a “remarkable” consensus across “the Left” that the permanent expeditionary forces unleashed under the War on Terror was a fundamentally new development in destabilising the distinctions between war and peace, as a state of exception. For example, Badiou argued that “whereas in the past declaring war would, to the contrary, have expressed the present of a discontinuity [...] this continuity has rendered war and peace indistinguishable”. The ‘past’ here constructs a ‘classical age’ where states of war and peace were fixed and distinct: this perpetuates a major myth of liberalism, that is, of pacific domestic realms and a peace between states managed through international law. Relying upon a conventional notion of ‘war’ upon which IR and strategic studies is founded then perpetuates a historical misconception, and belies that this blurring “was part and parcel of an ascendant liberalism which found an important political use for

¹ See Derek Gregory’s work on what he terms the ‘Everywhere War’, theorised as a conflict characterised by transnational, asymmetrical violence in the global borderlands: Gregory, ‘The Everywhere War’ in *The Geographical Journal* Vol. 177 No. 3 (September 2011) pp.238-250

the language of peace within the context of international law".² I have touched upon this relation in the history of humanitarian intervention above. In this chapter, I will interrogate the practices of 'pacification' as re-making life. Pacification, as founded upon a logic of destruction as reconstruction, is a lens that enables us to destabilise the war/peace distinction that pervades studies of warfare, that disregards colonial violence, and ultimately sustains liberal claims of a pathway to peace through a limited violence. Who inscribes these limits and who ultimately resides beyond such limits?

A definitive tenet of liberal doctrine has been concerned with the removal of the conditions of war from the life of civil society, structured along the inside/outside dichotomy. The Lockean republic emerging from the state of nature and the Kantian vision of a growing international society of republics both imagine a modernity of liberal peace, underpinned by the 'natural' pursuit of self-improvement and security as incentive. 'Peace' is conceived as the end of martial action, and the veneer of a restored order and stability shapes the Western experience of war/peace; however, this history does not reflect the experiences of (post)colonial populations, neither the subjects of 'imperial policing' through air power, nor those under the constant watch of drones. The study and categorisation of 'war' must constantly be decolonised. Sartre relayed the cry of a new generation of colonial subjects, calling out the hypocrisies of liberal humanism: "You are making us into monstrosities; your humanism claims we are at one with the rest of humanity but your racist methods set us apart." The inhumanity of humanism is consistent with the colonial subject as a foil for the 'human' - the civiliser, the saviour, the human-rights enforcer: "the European has only been able to become a man through creating slaves and monsters".³

The Obama administration, while expanding a dronified national security, repeatedly made reference to principles of 'humanity' in the use of such powerful weaponry, the US capable of self-policing such deadly force. This supposed adherence to the humane is used to justify a constant surveillance presence and the ordering of targeted assassinations - populations terrorised by the fear of instant-death. Introducing the topic of 'humanising warfare', I will address the hierarchies of legitimacy and the Eurocentricity in the study of war, before proposing 'pacification' as a lens through which to study the biopolitical warfare of the 21st century, which will be developed through reference to counterinsurgency and air power.

Semiwar

Esteemed military historian Sir Michael Howard delivered the Trevelyan lecture series in 1978 entitled 'War and the Liberal Conscience'. Howard characterises his critique of the 'liberal conscience' through a portrait of the eponymous figure, George MacCaulay Trevelyan; in this telling, the road to hell is paved with good intentions, and the pacific

² Mar Neocleous, 'War as Peace, Peace as Pacification' in *Radical Philosophy* Vol.159 (Jan/Feb 2010) p.9; Alain Badiou, *Polemics*, Trans. Corcoran (London: Verso, 2006) p.40

³ Sartre, 'Preface' to *Wretched of the Earth*, Fanon, p. 8, 26

ideals pursued by the proponents of liberalism belie the martial power unleashed by these ideals. Questioning the relationship between liberalism and war, Howard sought to expose the paradox of a historical record of violence in the name of peace, where war has become more efficient and lethal. In a story of righteous idealism, taking the audience to the contemporaneous Cold War ideological standoff, Howard critiqued the division of the world where dissenters were summarily dismissed as 'clients of Moscow' and sympathisers as members of Free world. In this line of argumentation,

"his target was the way in which the liberal universalization of war in pursuit of perpetual peace impacted on the heterogeneous and adversarial character of international politics, translating war into crusades with only one of two outcomes: endless war or the transformation of other societies and cultures into liberal societies and cultures".⁴

However, this seemingly paradoxical relationship only appears as such when framed through reference to a naive and idealistic 'liberal conscience'. The theory of the liberal way of war - as developed by Dillon and Reid, as well as Evans - argues that beyond 'good intentions', liberalism must be recognised as "a distinctive regime of power relations", where liberal rule is dependent upon "the continuous state of emergency and security as well as a constant preparedness for war, which characterize liberal rule as such".⁵ Adding a historical depth - often missing in elaborations of the liberal way of war - this chapter elucidates the productive aims of force projection: as Jabri argues "violence is implicated in relations of power [...] when the population of Iraq is targeted through aerial bombardment, the consequence goes beyond injury and seeks the pacification of the Middle East as a political region".⁶ Rather than some unintended consequence of good intention, the huge US military complex is sustained upon the premise of peace through expanding security.

The US exists in a continuous state of preparation for a national security crisis, with a permanent military presence across the globe. There exists no rival to US military power, a colossus, whose defence spending outstrips that of the next seven countries combined - an oft-used formulation to highlight the disparity. The defence budget stands at just under \$700 billion, which sustains a global network of almost 800 bases in more than 70 countries. The 2015 DOD base structure report boasts a "global real property portfolio that consists of nearly 562,000 facilities (buildings, structures, and linear structures), located on over 4,800 sites worldwide and covering over 24.9 million acres".⁷ Facilitating the smooth control of US military forces across peace and war time, the Pentagon has eleven unified combatant commands, an audacious presence across the globe and beyond. The current administration's US Space Command was a source of ridicule, but this truly is the final frontier in a spatially amorphous security-scape.

⁴ Michael Howard, *War and the Liberal Conscience* (London: Temple Smith, 1978); Dillon and Reid, *Liberal Way of War*, p.5

⁵ Dillon and Reid, *Liberal Way of War*, pp.8-11

⁶ Vivienne Jabri, 'War, Security and the Liberal State' in *Security Dialogue* Vol. 37 No. 1 (2006) p.54

⁷ US Department of Defense, 'Base Structure Support Fiscal 2015 Baseline', A Summary of the Real Property Inventory (2015)

Four 'functional commands - cyber, special operations, strategic, and transportation - are accompanied by seven regional: space the most recent; Africom was established in 2007, as Africa was emerging as a key theatre in the War on Terror; Central Command, focused upon West Asian, North African, and Central Asian regions is an active command which controls operations in Iraq, Afghanistan, and Syria; both the European and Indo-Pacific Commands were established in the wake of the Second World War, the latter is the oldest, founded in 1947 and presiding over operations in around 52 percent of the Earth's surface; the homeland-securing Northern was only founded after 9/11, conceived as mainland defence; finally, Southern Command oversees the rest of the hemisphere, South of the border. Each of these regional and tactical commands perform a geographic expansion of security, composing a global sphere of operations, regulation, and response. The promise of banishing war has warranted the expansion of military frontiers. Maintaining troops in far-flung places is presented as a necessary defence of US freedom - a universal freedom that is indivisible and must then be protected at all cost.

Proclaiming an objective of peace, the US military goes to great lengths to retain a constant war footing, across terrain and medium, from cyber war to counterinsurgency. This phenomena has been predicated on a responsibility, a logic of self-sacrifice for better times ahead, as Bachevich notes, "beginning with Franklin Roosevelt, every U.S. president had insisted that at the far side of America's resistance to totalitarianism world peace awaited. The reward for exertion today was to be a reduced need for exertions on the morrow⁸". Interrogating the apparent disinterest in the great expense and effort in the maintenance of this military colossus by the American public, Bachevich proposes the existence of the Washington Rules: the conviction that the US - and the US alone - must maintain a global military presence to uphold peace, freedom, and order. This logic was articulated by the very first Secretary of Defense, James Forrestal - whose ardent anticommunism informed a state of constant suspicion based upon a lack of trust - as he coined the term 'semiwar' to encapsulate a US position of constant readiness.⁹ This semiwar lives on in the articulation of 'overseas contingency operations'.

The sensationalist and simplifying label 'Global War on Terror' was surreptitiously changed in 2009 to the clunky terminology of military bureaucracy, 'overseas contingency operations', and the theatres of war expanded beyond recognised belligerents to include Pakistan, Somalia, Yemen, and Libya. This speaks to the importance of discourse - words matter, and as the 'war' dragged on, such terminology was deemed unhelpful. In response to a speech given by Obama in 2013 on his administration's counterterrorism policy, popularly referred to as his 'drone speech', a veteran of Vietnam and Operation Desert Storm General William Nash commented that Obama "has begun the transition from a perpetual war to a more normalized security framework".¹⁰ Targeted assassination across

⁸ Andrew Bachevich, *Washington Rules: America's Oath to Permanent War* (New York: Metropolitan Books, 2010) p.138

⁹ Bachevich, *Washington Rules*, pp.27-28

¹⁰ Nash quoted in Tom McCarthy, Coverage of Obama Speech, 'Perpetual War will Prove Self-Defeating' in *The*

sovereign borders - without the declaration of war - is not 'war' then but 'security', the everyday management of order. This normalisation refers to the categorisation and control of life in 'ungoverned spaces' within a global threatscape. Obama referred to the congressional Authorisation for Use of Force Against Terrorists that was given in the wake of 9/11 to claim legality in both domestic and international law, in attempting to dismantle al Qaeda, the Taliban, and any associated terrorist groups, "this is a just war — a war waged proportionally, in last resort, and in self-defense": rather than a 'boundless' global war, Obama stressed that this was rather "a series of persistent, targeted efforts".¹¹ However, the limiting of the (differential) power that is held in such a superior technology as the drone the power "to strike half a world a way also demands the discipline to contain that power — or risk abusing it": as Obama noted the "clear guidelines, oversight and accountability" codified by the administration, the discipline is understood to be held by the US government.¹² The Just War of a nation against an organisation is said to be limited and controlled then by the transparency of democratic governance.

Liberal War as Just War

One of the most pervasive questions in the study of war has been the extent to which this brutal human interaction can be limited and controlled. Just War thinking posits a capacity in humanity, through religious doctrine and enlightenment rationale to the articulation of international law, that can place prohibitions on the recourse to war, as well as to regulate the conduct once declared: *Jus ad Bellum* and *Jus in Bello*.¹³ Moderating the inhumanity of state-sanctioned death - as the last means of defence - has been a core interest in the study of war in International Relations. Regulation of grievance - and establishing spaces to air grievance - has been structured around notions of security, and fundamentally of order. The irrationality of war has been theorised as controlled through reason, by way of mediation and collective security.¹⁴

In the attribution of 'just cause', there is a problem of intention, that reveals a hierarchy of legitimacy. Wars throughout history have been waged upon a presumption of justice, just as drone strikes have been premised upon the barbarity and lawlessness of the terrorist. However, the problem in attributing just cause has been captured by Wynham Lewis who asks, "what war that was ever fought, was an unjust war, except of course that waged by the enemy".¹⁵ The contingencies of legitimacy are evidenced in the post-Cold War attitudes

Guardian (23 May 2013)

¹¹ Barak Obama, 'Remarks by the President at the National Defense University' Fort Nair, Washington DC (23rd May 2013)

¹² Obama, 'Remarks at National Defense University'

¹³ Daniel R. Brunstetter, Cian O'Driscoll (ed.) *Just War Thinkers from Cicero to the 21st Century* (Oxon: Routledge, 2017); Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, 5th ed. (New York: Basic Books, 2015); Alex J. Bellamy, *Just Wars: From Cicero to Iraq* (New York: Polity Press, 2006)

¹⁴ Jabri, *War*, p.3

¹⁵ Wynham Lewis quoted in Douzinas, *Human Rights and Empire*, p.236

of the US toward what were regarded as revolutionary allies: groups who had been hailed as freedom fighters in struggles against communist tyranny became villains overnight. Supporting insurrectionary force against regimes in the process of decolonisation had been a commonplace facet of the ideological rivalry - in US eyes, between freedom and totalitarianism. Bestowing political legitimacy upon some groups - and denouncing others - in the birth pangs of sovereignty was exercised through the supply of arms and funding to rebel groups and authoritarian regimes. The waning of the Cold War, while violence persisted, gave rise to a changed understanding of warfare, focused on civil conflicts. In these 'new wars', intra-state belligerence was situated in 'ineffective' states and held as proof of the incapacity to govern, rendering a moral drive to intervene.¹⁶ The geopolitical shift changed the perceived threat-scape of Third World insurrection, resulting in the revocation of 'legitimacy'.

The nation-state is integral to traditional conception of warfare. This example reveals the contingency of *some* sovereignty, intervention through covert forces to defend against communist tyranny then became intervention to protect against 'failure'. The 'justness' of the War on Terror, or series of contingency operations, is predicated upon the unjust conditions otherwise. In arguing for war in Iraq, both Bush and Blair posited an untenable status quo, whereby the Hussein regime was terrorising its own people, neighbouring states, and international order: action then the only option. Containment - largely orchestrated through deadly sanctions - had not worked. Blair stressed the danger of waiting for a more clear-cut attack, invoking the uncertainty in the rise of Hitler and the initial dreams of appeasement. The choice as presented by Blair in the parliamentary debate was between war and inaction:

"We must face the consequences of the actions we advocate. For me, that means all the dangers of war. But for others, opposed to this course, it means - let us be clear - that the Iraqi people, whose only true hope of liberation lies in the removal of Saddam, for them, the darkness will close back over them again; and he will be free to take his revenge upon those he must know wish him gone".¹⁷

Thus, to take an oppositional stance to intervention, Blair argues that one must reckon with the continued suffering that this decision will entail. This exposition of either war (of liberation) or continued - even exacerbated - suffering, is problematised by Just War scholar Cian O'Driscoll, as failing to attribute any moral questions to the use of force. War is simply regarded as the necessary, initial violence that will bring peace, justice, rights, democracy, and freedom - a targeted and controlled violence. Ultimately, "this argument treats war no differently to any other instrument of policy" and in fact, war is presented as a "continuation of morality by other means".¹⁸ This martial morality is a key tenet of liberal

¹⁶ Duffield, *Development, Security, and Unending War*, pp.116.117

¹⁷ Tony Blair, 'Opening Address of Debate on Crisis in Iraq', House of Commons (18 March 2003)

¹⁸ Cian O'Driscoll, *Renegotiation of the Just War Tradition and the Right to War in the Twenty-First Century* (New York: Palgrave MacMillan, 2008) p.72. O'Driscoll also notes Iraq did not have an 'identifiable humanitarian catastrophe'.

war, fought over modalities of life. War is a conflict over the conditions of peace, and the struggles with and for power continue in the institution of civic peace, which cannot be understood as the final break of the belligerence. Bush and Blair's evocation of an untenable status quo, whereby the international order disrupted by Saddam need only be restored through his ousting, places war as a necessary step toward peace. Understanding life as producing within itself the possibilities of its own (un)making enables the institution of killing for species-promotion.

The struggle to win the peace has been raging with particular fervour post-9/11, can be highlighted through what Evans refers to as the former UK Foreign Secretary David Milliband's "Foucauldian moment". The politician remarked on NATO's role in Afghanistan that the key battleground of insurgency was politics. The means of war had changed from 20th century attrition, so Milliband argued "in Afghanistan we need politics to become the continuation of warfare by other means".¹⁹ This Clausewitzian inversion rejects the ordering dichotomies of friend/enemy, inside/outside, war/peace to situate conflict within a planetary vision of humanity: "With global war therefore appearing to be an internal state of affairs, vanquishing enemies can no longer be sanctioned for the mere defence of things. A new moment has arrived, in which the destiny of humanity as a whole is being wagered on the success of humanity's own political strategies".²⁰ However, what Evans declares as a 'new moment' (re)produces an ahistorical assumption on the global reach of liberal violence historically construed as peace-keeping, pacification, and civilising. It is important to consider how 'war' has been conceptualised and categorised, how the Eurocentric assumptions of 'real war' structure how we consider violence in both the Global North and South.

War by Other Means

In order to grapple with the categorisations of violence, we must first ask, what do we mean when we talk about war? The study of war has been shaped through the experiences and conventions of the major wars of the 'West'. War is traditionally conceptualised as distinct from peace, as contained within a specific time and place, where relatively symmetrical forces of citizen-soldiers who represent their nation states are placed in opposition, until 'peace' is restored. Framed by Weber as the "human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory", the state can be understood to have acquired a 'monopoly on war'.²¹ With the assumption of the unitary state form, war was seemingly expelled to the border, the outer limits, where the disorder of war is juxtaposed with internal order. This inescapable

¹⁹ David Milliband, 'Address to NATO LEADERS', Brussels (27th July 2009) <<https://www.newstatesman.com/2009/07/afghanistan-taliban-pakistan>>

²⁰ Brad Evans, 'Foucault's Legacy: Security, war and Violence in the 21st Century' in *Security Dialogue* Vol. 41 No. 4 (2010) p.423

²¹ Foucault, *Society must be Defended*, pp.48-49; Max Weber, *Politics as a Vocation* (Philadelphia: Fortress Press, 1965)

dichotomy of inside/outside, order/disorder, war/peace has grounded the scientific study of both political science and International Relations. The notion that this distinction has only been blurred in the War on Terror, only serves to sanitise martial relations of 'peace', both internally as well as in relation to military operations *short of war* abroad. Speaking to the broader title of this chapter, 'Humanising Warfare', the colonial origins of both counterinsurgency and airpower must be taken into account, as this 'humanising' relies upon a hierarchisation not only of human life, but also upon military expeditions.

The pervasive tendency to discount colonial warfare then only places large scale operations between two or more nation states as beholden to the restrictions of *jus ad bellum* and *jus in bello*. Calling for the decolonisation of war studies, Tarak Barkawi problematises the use of war as a demarcation in Western history such as in the Cold War or the Thirty Years War, by suggesting sustained engagement with histories and sociologies of warfare in the Global South, where conflict and oppression dominate the encounter between the West and the non-European world: what could be considered, a history of permanent war.²² The labels of 'unconventional', 'irregular' or 'small' wars are indicative of their status within both academic and military considerations of war, and encompass a diverse range of practices including peace-keeping, state-building, counterinsurgency, and counterterrorism.²³ The US military use of 'Low Intensity Conflict' or 'Military Operations other than War' as all-encompassing labels for operations distinct from 'conventional war' will be explored in the following discussion of counterinsurgency. Such operations are overwhelmingly located in the 'developing world' and largely engender relative disdain in the circles of the Pentagon. While the history of 'small wars' has certainly not been wholly ignored, my interest in the subject was sparked while a student of War Studies at a British institution, the conception are shaped in relation to Eurocentric standards, evident in their supplementary descriptors.

A central theme explored throughout this chapter is the institution of violence as order-making. The 'permanent war' of colonial violence was prefaced upon the civilising mission, while also sustaining the order of capitalist accumulation: as has increasingly been recognised yet remains woefully decentred in IR, capitalist modernity arose through the violent imperial project of land theft, indentured labour, and chattel slavery, the appropriation of labour and wealth and the reduction of bodies to objects.²⁴ As will be developed through reference to pacification, the logics of the domestic use of force as

²² Tarak Barkawi, 'Decolonising War' in *European Journal of International Security* Vol. 1 No. 2 (2016) pp.204-205; See also, Isabel V. Hull, *Absolute Destruction: Military Culture and the Practices of War in Imperial Germany* (Ithaca, NY: Cornell University Press, 2005)

²³ See: Colonel C. E. Callwell, *Small Wars: Their Principles and Practice* (3rd edn, Lincoln: University of Nebraska Press, 1996); Keith E. Bonn and Anthony E. Baker, *Guide to Military Operations Other than War* (Mechanicsburg, PA: Stackpole Books, 2000); Max Boot, *The Savage Wars of Peace* (New York: Basic Books, 2002)

²⁴ For example: Walter Johnson, Robin D.G. Kelley (ed.) *Race, Capitalism, Justice* (Cambridge: Boston Review, 2017); Ian Baucom, *Specters of the Atlantic: Finance Capital, Slavery, and the Philosophy of History* (Durham, NC: Duke University Press, 2005); Cedric Robinson, *Black Marxism: The Making of the Black Radical Tradition* (Chapel Hill: University of North Carolina Press, 1983)

'keeping the peace' can be witnessed in transnational practices of creating 'order'. Discounting the practices of 'small' wars as *other than* can also be read through the dominance of the 'nation state' in studies of IR. The European trajectory of war in state formation through to the democratic peace (re)produces a horizontal relation between states, and therefore a racialised notion of capability in the 'unconventional' forces of failed and rogue states. Studying a decolonised war, Barkawi argues, can reveal not only the hierarchies of the state system but also the productive use of force in the co-constitutive relationship of war and society: "imperial war and other kinds of Small War loom large as historical forces in the making [of] world politics, fundamentally shaping societies in the global North and South over the modern era".²⁵ In the exploration of wars *other than* in the destabilising of the structuring dichotomies of war/peace - order/disorder, police/war - I will first turn to Foucault as a one of the most prominent thinkers in the productive capacities of war, before referring to 'pacification' as the lens through which to interrogate the colonial hierarchies in liberal rule generally, and violent human rights enforcement specifically.

Peace as Coded War

This complex of assumptions in distinguishing war from peace function to conceal the violence of liberalism both in the domestic contexts of policing powers, as well as externally in the ordering of the international system - violences that sustain the relations of capitalist modernity through the discursive formations of security. Believing political theory to be "obsessed with the person of the sovereign", Foucault sought to "cut off the head of the king", and in unsettling this sovereign obsession, he proposed war as an analytic through which to analyse social relations, asking "if we look beneath peace, order, wealth, and authority, beneath the calm order of subordination, beneath the State and State apparatuses, beneath the laws, and so on, will we hear and discover a sort of primitive and permanent war?"²⁶

To analyse liberal social relations through the lens of war recognises antagonism as engendering power. Foucault posits (liberal) peace itself as a coded war: a war that ultimately places the promotion of life (or rather, a specific, fluid, interpretation of life-to-be-protected) at the centre of strategies of security. Foucault's inversion of Clausewitz's famous aphorism, stating that politics is in fact the continuation of war through other means, problematises the simple dichotomy of war as exception against the normality of civic peace.²⁷ Thus, the establishment of the political power of government was not the pacific compromise that is expelled in social contract theory, whereby the 'absolute' liberty of the state of nature is accompanied by absolute insecurity, and the citizen relinquishes some freedom for security. Rather, politics encodes, (re)produces, and masks the disequilibrium of forces from which were borne the founding struggles of modern states.

²⁵ Barkawi, 'Decolonising War' p.206

²⁶ Foucault, *Power/knowledge*, p. 121 and Foucault *Society must be Defended*, pp.46-47

²⁷ Foucault, *Society must be Defended*, pp.15-16

Such a continuum can also be related to the intersection between liberal war and liberal development in the development-security nexus, whereby underdevelopment is inherently dangerous. As providing security has been related to the development of the population - to the insurance of human security - intervention in postcolonial spaces has included the express aim of building a stable and pacific state (as realised through liberal democratic practices). Intervention installs both military and civic trusteeship, structuring the peace through order.²⁸

Relations of war are central to the US interactions with 'underdeveloped' life, and International Political Economist Nicholas Kiersey reminds us of the role of political economy in biopolitical calculations - the value of human life both within and without liberal societies are accorded through reference to their utility to relations of global capital.²⁹ The postcolonial spaces problematised as failures and rogues through reference to a lack of human rights are also revelatory of this fostering of the self-reliant, entrepreneurial subject: as Duffield explains, "rather than a universalizing biopolitics, development is the opposite. It is a means of dividing humanity against itself in the generic form of developed and underdeveloped species-life. Development is thus central to the new or culturally coded racism that emerged with decolonization".³⁰ Underdevelopment is presented as the problem to be solved, through neoliberal reforms, that will inevitably then engender a respect for rights. The institution of neoliberal reform that have been noted in the initial 'rebuilding' of both Iraq and Afghanistan is also evident in the 'restoration of democracy' in Haiti in 1994, that served to discipline the island nation's sovereignty.³¹ The politics of regime change (or 'restoration') entail a host of conditions upon which 'successful' and 'secure' nations can be founded.

Racial division is central to Foucault's genealogy of modern power relations and to the conceptualisation of peace as coded war: race is integral both in the formation of the modern state as well as in the functioning of liberal biopolitics. While the term 'race' is conceptually laden, Foucault refers to the emergence of the idea of 'race' in Europe that is not inherent to a particular biological categorisation, rather, 'race' refers to shared culture, language, or religion. Race is understood as designating a 'historico-political divide' in the articulation of two separate peoples who can form a unitary polity only through violence, understood as acts of war.³² While race is addressed, Foucault fails to engage seriously with

²⁸ Brad Evans, 'The Liberal War Thesis: Introducing the Ten Key Principles of Twenty-First-Century Biopolitical Warfare' in *South Atlantic Quarterly* Vol. 110 No. 3 (Summer 2011) p.750

²⁹ Nicholas J. Kiersey, 'Neoliberal Political Economy and the Iraq War: A Contribution to the Debate about Global Biopolitics' in *Security and Global Governmentality: Globalisation, Governance and the State* (ed.) De Larrinaga, Doubt (Oxon: Routledge, 2010) p.

³⁰ Duffield, *Development, Security and Unending War*, p. ix

³¹ Noam Chomsky, 'US-Haiti', <<https://chomsky.info/20040309/>> "The harsh neoliberal program that Aristide was compelled to adopt was virtually guaranteed to demolish the remaining shred of encomium sovereignty, extending Wilson's progressive legislation and similar US-imposed measures since".

³² Foucault, *Society must be Defended*, p. 77. Having wrested war and history from the exclusive source of the sovereign, Foucault identifies the emergence of the historico-political discourse in the seventeenth century as that of race war. Situating this observation in early modern France and England, this is illustrated by examples such as conflict between the Anglo-Saxons and the Normans. It is a racial binarism that forms the basis for

the racist logics of colonialism in his history of the European modern (biopolitical) state, which elides the accumulation upon which it was predicated. The emergence of the nation state, specifically referred to by Foucault as in the wake of the French Revolution, is not placed in relation to the war against indigenous population and the riches reaped from foreign lands. In the (Western) modern state, Foucault argues that the relationship to war is turned toward ensuring the survival of the society - in defence of the juridical entity of the state. In this defence, there can no longer be a nation relative to other peoples, but one nation - the norm - that rules through reference to a 'Statist universality'.³³ In the institution of biopower, war is fought in the name of the population: it is no longer that we must defend ourselves from society, but that we must defend society from those 'degenerate', 'abnormal' elements emerging from within our own ranks. The order of law is then exposed as retaining the disequilibrium of this race struggle; the violence, competition, and domination between races (understood as the struggle of peoples to rule) is both a foundation and an effect of the order of laws.³⁴

Biopolitics as directed toward man-as-species, a biologised, regularised, and measured 'unitary living plurality', secures life through the expulsion, or elimination of those threats emerging from within itself. Deviant, abnormal life within the species endangers the whole. Race enables the caesura in the species life of the population whose survival is at the centre of struggles of security. As security is directed toward dangers to the whole that emerge from within, biopolitics thus engenders a future-orientated technology of security, in a society where death is an increasingly hidden and excluded aspect of society, "security mechanisms have to be installed around the random element inherent in a population of living beings so as to optimise a state of life".³⁵ This battle-space, that takes place at the level of population, needs a mechanism that enables social death, the death of the enemy. Biopower, organised around the norm, must simultaneously be constituted by the abnormal. Echoing an earlier sentiment in the *Will to Knowledge*, Foucault concludes that "in a normalising society, race or racism is the precondition that makes killing acceptable".³⁶ It is recognised that 'death' does not correspond merely to the direct act of murder, but also to forms of exclusionary violence that result in social death, death as a political subject with needs, rights, and insecurities. Taking man-as-species as referent object of security in the

social relations throughout society. War is antagonism, it is the struggle for domination, and it is from a position of perspective. This discourse of race - of a different people from without, united through shared traditions and modalities - formed the foundation of revolution and resistance as it essentially defines the struggle between two competing peoples and their modalities of life. These early modern race wars form a counter history to that of sovereign unity and continuity in recognising the domination and subjugation that was unleashed in sovereignty. By recognising that the veneration of the great eschews the history of those lesser, the excavation of this discourse uncovers the violence, injustice, and dissymmetries that sustain such rule. The order of law is then exposed as retaining the disequilibrium of this race struggle; the violence, competition, and domination between races (understood as the struggle of peoples to rule) is both a foundation and an effect of the order of laws

³³ Foucault, *Society must be Defended*, p.222

³⁴ Foucault, *Society must be Defended*, pp. 69-79

³⁵ Foucault, *Society must be Defended*, pp.246-249

³⁶ Foucault, *Society must be Defended*, p.256

service of state power enables the categorisation of life in reference to the norm and the expulsion of those forms of life that cannot or will not conform, thus posing a degenerative threat.

In the final lecture of *Society must be Defended*, Foucault elaborates how the expulsion of war to the limits of the state are tied to a biologist, evolutionist reading of population that functions within a biopolitical state power; new forms of warfare are conceived to enable (and demand) killing in the name of life. The death of the Other is directly correlated to the rejuvenation and strengthening of the 'true' race. Racism is conceived of as the mechanism which facilitates biopolitical power. It is through the prism of race that the sovereign power to take life can be carried out by a biopolitical State.³⁷ Fascism, and specifically the Nazi society, is highlighted as the 'paroxysmal' example of a biologically regulated, murderous, and universalising State project. Foucault muses upon the uniqueness of Nazi Germany in the relation of the sovereign right to kill and the biopolitical right to kill, noting that "this play is in fact inscribed in the workings of all States. In all modern States, in all capitalists States? Perhaps not".³⁸

It is in this hesitant failure to push this analysis into the liberal state that one must interrogate, a failing which can be related to the general exclusion of colonial relations and racist notions foundational to the constitution of the 'human-to-be-defended' in the theorisation of biopolitics. Foucault briefly notes colonial, genocidal wars in the development of a martial racism that justifies death, while placing the Holocaust as the pinnacle of 'necessary killing'. As Howell and Richter Montpetit note in their critique of the 'white-washing' in Foucauldian security studies, the relations of chattel slavery, settler colonialism, and indentured labour - along with the associated economic relations - as explored through postcolonial, decolonial, indigenous, and critical race studies, are not seriously tackled in the origins of biopolitics, thus keeping distinct the metropole and the colony. In asserting the racial distinction of life as emerging after the institution of biopolitics, such studies fail to account that "racism is fundamental to the idea of the human that formed the basis for biopower".³⁹ Fanon's image of the "self-congratulatory West" juxtaposed to the "geography of hunger [...] a world inhuman in its poverty" is implicitly reproduced without the recognition of the mutually constitutive relations of modernity and colonialism.⁴⁰ This perspective is crucial in addressing the ahistorical tendency in interrogations of 'liberal war'. If a normalising society is a necessary outcome of a power centred on life, and racism the mechanism of differentiation in prescribing death, how does

³⁷ Foucault, *Society must be Defended*, pp.257-258 Foucault also talks about the exposure of the population to death as a purification technique that developed.

³⁸ Foucault, *Society must be Defended*, pp.260-261

³⁹ Melanie Richter-Montpetit, Alison Howell, 'Racism in Foucauldian Security Studies: Biopolitics, Liberal War, and the Whitewashing of Colonial and Racial Violence' in *International Political Sociology* Vol. 19 (January 2019) pp- 4-5; Frederick Cooper, Ann Laura Stoler (ed.) *Tensions of Empire: Colonial Cultures in a Bourgeois World* (California: University of California Press, 1997); Denise Ferreira da Silva, *Toward a Global Idea of Race* (Minneapolis: University of Minnesota Press, 2007)

⁴⁰ Fanon, *The Wretched of the Earth*, p.96

this translate through war in defence of humanity? These wars are articulated as a defence of rights to a certain quality of life, in defence of a universal human rights framework, that increasingly mirrors a liberal capitalist framework.

Coded Peace as Pacification

Drawing upon Foucault's analytic, Vivienne Jabri proposes a conceptualisation of war as a 'technology of control'. While recognising the limitations in Foucault's under theorisation of the international - the war is very much directed inward, a war that takes place within society rather than those relations that exist between states - Jabri proposes an application to wars of the present that are increasingly fought in the name of humanity. Fighting for the survival of the species, such struggles take on an existential character. To flesh out an international, Jabri's concept of the "matrix of war" includes a series of "interconnected practices" from war and military operations other than, to renditions and drone targeting, that constitute a "global machine".⁴¹ However, Neocleous has further problematised the tendency in Foucault to keep distinct the analytical lenses of police power and war power, and in failing to connect these logics ultimately reproducing the inside/outside divide. In order to understand the securing of the dominant liberal, capitalist order, he proposes the process of 'pacification', with and beyond war, as a conceptual framework that enables us to grasp security as a mode of government, ordering not only amenable domestic subjects, but spaces of domination and exploitation in the framework of commerce and accumulation: "if peace is a coded war, it is coded as pacification".⁴²

The term pacification has been associated with US military jargon during the Vietnam War as a stand-in for counterinsurgency, but Neocleous proposes critical theory must re-appropriate "pacification" to help grasp what takes place under the rubric of security politics" as a "powerful theoretical change, linking as it does the military to the police, the foreign to the domestic, the colonial to the homeland"⁴³. Police power is conceptualised as the maintenance of 'good order', encompassing the 19th century institutional notion of the provision of law and criminal processes, as well as an older and broader idea that included the disciplining of labour and education, the regulation of trade - in short, confronting anything construed as a 'breach of the peace'. Pacification thus offers a means to account for the constitutive colonial history of the human in war, as well as the political economies of violence. In the recognition of the security project of bourgeois modernity as founded upon "imperial domination and domestic control", pacification "advances our understanding of the world capitalist economy and its social relationships by arguing that it is also a 'world military order' undertaking through a whole host of 'police actions'".⁴⁴ The

⁴¹ Jabri, *War*, pp.56-59

⁴² Neocleous, *War Power/Police Power*, p.32

⁴³ Mark Neocleous, "'A Brighter and Nicer New Life': Security as Pacification' in *Social & Legal Studies*, Vol. 20 No. 2 (2011) p.204

⁴⁴ Mark Neocleous, George Gigakos, Tyler Wall, 'On Pacification: Introduction to the Special Issue' in *Socialist Studies* Vol. 9 No. 2 (Winter 2013) p.2

term, and the practice, of 'pacification' can be traced to the military revolution of the 16th Century. Captain Bernardo de Vargas Machua's *Milicia Indiana* is the first counter-revolutionary manual, a text forgotten in the annals of the military revolution - an effacement of colonial warfare from 'war proper' that continues in military history and theorising. Emerging as a strategy for colonial powers to quell colonial revolt, pacification appeared first in the Edicts of Pacification of 1563, 1570 and the Edict of Nantes in 1598, which detailed the pacification of 'discoveries' - expressly not to be termed 'conquests' - through not only military force but also "the gathering of information about the population, the teaching of trades, education, welfare provision, ideological indoctrination, and, most importantly, the construction of a market".⁴⁵ Liberal practices of pacification are focused upon life at the level of the population. The production of a secure, capitalist subjectivity entails creating relations that sustain inherently insecure capital through excluding 'disorderly' elements. While the term has fallen from use, the practices of pacification as security, stretching back to the precarious securing of capital at home and abroad, continue to (re)produce the relations of good order through both war and police power - carrying out the biopolitical separation of good liberal from dangerous illiberal life. The 'normalised security framework', instituting 'order' as an expansion of liberal capitalist freedom, is a pacification project of destruction and reconstruction.

⁴⁵ Neocleous, 'Brighter and Nicer New Life' pp.199-200; Neocleous, *War Power/Police Power*, pp. 33-34

4.2. Countering Insurgency: Military Operations Other Than War

Col. Mathieu: Will you kindly explain to me why the Sartre's are always born on the other side?

Journalist: So you like Sartre, Colonel?

Col. Mathieu: Not really, but I like him even less as an adversary.

- Gillo Ponecorvo (dir.) *The Battle of Algiers* (1966)

The interventions in both Afghanistan and then Iraq began with a 'shock and awe' explosion of brute strength. This overwhelming power fuelled an early perception of victory, of an adversary on the run. However, while initial battles were won, the real problem is 'winning the peace': that is, the difficulties in consolidating 'freedom' and pacifying the country. Myriad factors contributed to the quick dissipation of the initial elation. To name but a few: the premature self-congratulation of a job-well-done in Afghanistan led to an easing-off in the turn toward Iraq; this compounded a complete lack of understanding of local communities, traditions, and political structures which translated into mismanagement of the Phase IV, stabilisation operations on the ground. Following the invasion of Iraq and the toppling of Saddam, the transitional Coalition Provisional Authority passed two infamous orders (which contributed to the subsequent insurgency and even the growth of Daesh). Firstly, a process of 'De-Ba'athification' of Iraqi society removed all members of the party from civil service, seemingly failing to realise that membership was a prerequisite of government employment. As well as the civil services, the Iraqi military were not only disbanded but in a haphazard way, taking their weapons and expertise with them. Thus, both the civil and military structure, and those who were capable of rebuilding it, were excluded.¹ The alienation caused by this chaos fuelled a paradigm-shift in the US military approach to a 'population-centric' way of war.

The release of the 2006 Counterinsurgency Field Manual and the installation of its author, General David Patreaus, as the leader of the 2007 troop surge, was the renaissance of a doctrine that had been shelved since the Vietnam War: the quagmire had been interpreted as an apparent affirmation of long-held institutional unease surrounding asymmetrical warfare. Geared toward the pacification of the destabilised Iraq and Afghanistan, the shift from a targeting of terrorist networks to engaging with an insurgency entailed a recognition of a necessary long-term engagement if peace was to be resorted and nations (re)built. Advocating a renewed commitment to insurgency and introducing the troop surge in Afghanistan in 2009, Obama addressed the amorphous threat, that "extends well beyond Afghanistan and Iraq". The President considered the conflict as a challenge to the supposed clear-cut borders and divisions of 20th century conventional warfare - again excluding the counter-history of 'unconventional wars' - and called for a changed perspective as "our effort will involve disorderly regions, failed states, diffuse enemies".²

¹ Cherish M. Zinn, 'Consequences of Iraqi De-Baathification' in *Cornell International Affairs Review* Vol. 9 No. 2 (2016)

² Barak Obama, 'Speech at United States Military Academy on Afghanistan' West Point, New York (2nd December 2009)

These problematised 'disorderly regions' and 'failed states' are therefore the source of transnational circulations of insecurity. Counterinsurgency was then ascribed as the means to ensure success in the imposition of order, as a practices of security to pacify 'ungoverned spaces' through managing problematic populations.

In order to understand these logics, it is imperative to investigate the colonial roots of the contemporary practices in problematised, post-colonial spaces. As mentioned in the previous chapter, the constitutions of both post-intervention Afghanistan and Iraq outlined specific political and economic structures of liberal democracy. Counterinsurgency combines liberal logics of both development and war, in a security project of pacification. The threat of disorder and failure spans across colonial fears of the barbaric native into the terrorist 'enemy combatant'. How is war conceptualised in US counterinsurgency, and informed by the colonial roots? How has counterinsurgency related to security logics as described in liberal war, that of securing life from those within? Finally, how does counterinsurgency - as a means of pacification and of building a particular order - engage with the human rights regime of truth?

Counterinsurgency encompasses the twin projects of destruction and reconstruction: rooting out the insurgency, immunising the population from deviant elements, and (re)building a functional state. Translating the tensions between human rights and sovereignty, the human-as-yet-to-be-realised is recognised only through the management of a functioning state. The notion of 'hybrid warfare', that has been used to portray the conflict in Iraq instils a notion of novelty. IR scholar Colleen Bell has argued that 21st century counterinsurgency has projected humanitarianism and development into warfare, positing that "although war is always destructive, almost all wars of today are not only rationalised on humanitarian grounds but call for the integration of humanitarian means into the struggle at hand".³ However, through the lens of pacification, this simultaneous destruction/reconstruction has precedent throughout interference in colonial/postcolonial spaces. This presentist bias colours much of the literature on liberal war, and while the authors of the 2006 Counterinsurgency Field Manual refer to both British and French colonial war theorists, many analyses of the counterinsurgency/cultural turn in Iraq suffer from a tendency to reproduce an ahistorical account of the insertion of 'development' into warfare.⁴

The 'Other War': Immunising Against 'Wars of National Liberation'

³ Colleen Bell, 'Hybrid Ware and Its Metaphors' in *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* Vol.3 No.2 (Summer 2012) p.225

⁴ Attewell diagnoses this 'Humanitarian present-ism' in an analysis of USAID; Wesley Attewell, 'Ghosts in the Delta: USAID and the historical Geographies of Vietnam's 'Other War' in *Environment and Planning* Vol. 47 (2015) p.2258; See also Eyal Weizman, *the Least of All Possible Evils: Humanitarian Violence from Arendt to Gaza* (London: Verso, 2011); Thinking of 'liberal war' has a tendency to locate development and humanitarianism in violence of 21st/late 20th century, for example, Coleen Bell, Brad Evans, 'Terrorism to insurgency: Mapping the Post-Intervention Security Terrain' in *Journal of Intervention and Statebuilding* Vol. 2 No. 4 (December 2010) pp.371-390

The notion of 'pacification' is most prominently associated with US strategy in the Vietnam War, as a strategic re-shuffle when so-called 'conventional' methods were found wanting in the infamous quagmire. A 2006 RAND report prepared for the Secretary of Defense 'On "Other War": Lessons from Five Decades of RAND Counterinsurgency Research', defined pacification as "something of a catchall. It is best thought of as a combination of security and development in a given political unit (e.g., village or neighborhood). The central finding in RAND's pacification research was that it was by focusing on pacification in smaller political units, rather than ambitious plans for the nation as a whole, that progress could be made".⁵ The report also refers to the consistent focus of the US military of preparation for symmetric, conventional warfare, leaving the country unprepared for the challenges of insurgency, a mistake that Kennedy attempted to avoid from the beginning of his presidency.

Leaning about counterinsurgency and guerrilla warfare was placed high on the priority list of the incoming Kennedy administration. Two weeks before inauguration, the Soviet premier Khrushchev addressed the Politburo with an assessment of the world situation, asserting that while both world and even local wars were unlikely, "liberation wars and popular uprisings will continue to exist as long as imperialism exists", re-affirming the support of the Soviet union in aiding these "just wars".⁶ A newsworthy announcement in the US, this was a competition for ideological influence in the Third World and with the perception of rhetorical shots fired, Kennedy watched with alarm. In March of 1961, the President set up a 'Counter-Guerrilla Task Force' headed by CIA Deputy Director for Plans, Richard Bissell. The resulting report, 'Elements of US Strategy to Deal with Wars of National Liberation', investigated the necessary reforms for a governmental capability for counterinsurgency operations likely to loom on the horizon as well as called for the creation of an interagency committee to coordinate these efforts and develop doctrine across the relevant departments.⁷ Presidential authority was granted in National Security Action Memorandum 124, which ordered the establishment of 'Special Group (Counter-Insurgency). This group was to include a diverse section of members across the institutional framework of the US government: the Military Representative of the President, the Attorney General, Deputy Under Secretary of State for Political Affairs, Deputy Secretary of Defence, the Chairman of the Joint Chiefs of Staff, Director of Central Intelligence, Special Assistant to the President for National Security Affairs, and finally, the Administrator of the Agency for International Development.

This Special Group installed the 'special' consideration of counterinsurgency to an

⁵ Austin Long, *On "Other War": Lessons from Five Decades of Counterinsurgency Research*, prepared for the Office of the Secretary of Defense (Santa Monica: RAND Corporation, 2006) p.xi

⁶ Francis M. Casey, 'Soviet Strategy for the Third World Wars of National Liberation' in *The Journal of East Asian Affairs* Vol. 2, No. 1 (Spring/Summer 1982) p.157 (footnote 8)

⁷ Markus Kienzschef, *US Domestic and International Regimes of Security: Pacifying the Globe, Securing the Homeland* (Oxon: Routledge, 2013) p.37 and Office of the Historian, 'U.S. Covert Actions and Counter-insurgency Programs' in *Foreign Relations of the United States, 1964-1968* Volume XXIV Africa <<https://history.state.gov/historicaldocuments/frus1964-68v24/actionstatement>>

inclusive cross-section, a commitment to the encompassing scope of counterinsurgency operations, beyond the 'conventional' military framework of defeating the enemy. The Group itself was tasked with assuring "unity of effort and the use of all available resources preventing and resisting subversive insurgency and related forms of indirect aggression in friendly countries" by "the proper recognition throughout the U.S. Government that subversive insurgency ('wars of liberation') is a major form of politico-military conflict equal in importance to conventional warfare".⁸ The phrase 'indirect aggression' is perhaps indicative of the need for this 'unity of effort', beyond the scope of one department. The attribution of 'subversive' alongside 'wars of liberation' thus condemns insurgencies as against the interests of the US - as in, those that can be construed as tied to communist ideology.⁹ The necessity for studying, understanding, and preparing for counterinsurgency was framed by the Cold War struggle to attain a robust strategy in the Third World that would encompass economic, political, developmental, informational, and well as military operations to stave off the threat of revolutionary insurrection. The fear of losing control and influence over the developing world, meant action would have to touch every facet of the society.

Beyond this 'unity of effort' institutionalisation, the military also aimed to strengthen their ability to aid and comprehend their role in the civil-military entanglements of the 'unconventional'. The NSAM 119 issued on the 18th of December 1961, articulated the president's concern that "we may be missing an opportunity this year to develop methods for supporting whatever contribution the military forces can make to economic and social development in less-developed countries".¹⁰ This contribution was defined as 'civic action': projects where the military could be useful "to the populace at all levels in such fields as training, public works, agriculture, transportation, communication, health, sanitation, and others helpful to economic development".¹¹ The nature of 'civic action' was differentiated by country, from those actively engaging in insurgencies to where the threat was 'less imminent', but across these the aiding of economic stability and development was conceived of as a major role in constructing the bulwark against revolutionary insurrection. The civic military action was therefore intended to include (and reform) military expertise in the process of 'modernisation', targeted toward the populace and the improvement of the everyday through development, the fostering of what we would call 'good governance' in today's parlance.¹²

A report on the Cold War activities of the United States Army from 1961 to 1962,

⁸ National Security Memo 124 (18th January 1962) [memo] in folder D-16 NSC 4-a and NSC 5412/1 Covert Activity, Holding Centre for National Security Studies - Box 13 CNSS. National Security Archive, Washington DC.

⁹ Kienscherf, *Domestic and International Regimes of Security*, footnote 2 to Chapter 2 (p.157) - M. McClintock, *Instruments of Statecraft: U.S. Guerrilla Warfare aim Counter-Insurgency and Counter-Terrorism, 1940-1990* (New York: Pantheon Books, 1992)

¹⁰ The White House, 'National Security Action Memorandum [NSAM]:NSAM 119, Civic Action' Digital Identifier JFKNSF-333-010-p0001 (18th December 1961)

¹¹ NSAM 119

¹² For a more detailed engagement with modernisation, see Chapter 3.3.

outlined the implementation of this new focus upon counterinsurgency. Development, or rather underdevelopment, was placed at the forefront of the Cold War strategy. The 'highest intensity' level of the ongoing struggle was identified as guerrilla campaigns in 'wars of liberation', with major areas pinpointed as the new post-colonial spaces of South Asia, Africa, and the Middle East, as well as Latin America. Development is pinpointed as the overarching source of fragility, where the quality of life of the populations had to be improved. Placed against what was viewed as the successful communist strategy of fomenting unrest in 'wars of liberation', the difficulties of navigating a strategic policy which recognised self-determination while stemming the Soviet threat is made clear: "these countries have aspirations for rapid economic development which far exceed their capabilities, and they claim the right to determine their own destinies. Their thirst for improvement is marked by impatience with slow reforms, by pressures for political change, and by demands for dramatic and immediate economic growth".¹³ The world-wide deployment was also referred to as a notable factor in the invaluable contribution of the military to the president's development of 'counter techniques'. The emphasis was placed on specialised and targeted operations, not only in the expansion of Special Forces units but also the creation of 'Cold War Task Force' to be deployed in specific areas. Training and supporting indigenous military forces were stressed as a source of legitimacy and development, "to assist the population in a way which will gain support, loyalty, and respect for the military forces and the government they represent, and which will gain support for free world objectives".¹⁴ Again stressing the population, this 'assistance' would encompass issues from health and transportation, to nation building. The disillusionment and impatience of the populace had been diagnosed as the weakness exploited by the communists and assisting indigenous force to bring about improvements to the nation in line with 'free world objectives' could then enable a glean of self-determination.

As outlined in the previous chapter, the Kennedy administration embraced the Rostowian-led modernisation theory, and much of the discourse on counterinsurgency was similarly framed with regard to this notion of development. The communist rogues were situated in reference to the stages of development, and constructed within an overtly biopolitical metaphor of contagion as guerrillas were derided as a "disease of the transition to modernization [...] rooted in the pathology of economic development": the measures of 'treatment' structured through the dichotomies of good/evil, health/illness, cure/disease.¹⁵ The US Overseas Internal Defense Policy, published in September 1962, proposed insurgency to be a pressing threat to US national security. Fuelled by the Soviet's tried and tested methods of internal subversion, the US would have to gain experience in order to meet the continuing threat. Referring to the 2006 US manual, Olsson notes the tendency in US doctrine to categorise counterinsurgency as "foreign internal defense" and argues that this term is revelatory of the "ambiguity of the spatial reference of these military

¹³ NSAM 119

¹⁴ NSAM 119

¹⁵ Bell, 'Hybrid War' pp.231-232

interventions (foreign/internal) and the double-edged nature of their purported aim (domestic policing/defense)".¹⁶ These ambiguities highlight the entanglements of development and war in the enactment of liberal rule: counterinsurgency takes place in a 'host state' with the decisions made and forces provided externally, while the threat emanating from undeveloped spaces must be contained, as directly threatening to freedom and to the free world (in this case, falling to communism within the strategic paradigm of the Cold War).

The 'nature of the threat' was understood to be formed by two forces in the 'undeveloped world': the modernisation process itself can engender dangers in sovereign stability from the "stresses and strains of the development process"; and this internal instability occurs within the wider contest between "communism and the Free World for primary influence over the direction and outcome of the developmental process".¹⁷ The vulnerabilities that occur, as growing pains in the trajectory of modernisation, then had to be protected and secured against the influence of communism. It is the 'transitional' free society that posed the greatest risk, and in the fight for influence, the US had to maintain dominance: after the "shattering of the old mold", the path to a "viable modern state of popularly accepted and supported institutional strength" had to be secured.¹⁸ In this articulation, no agency is attributed to the developing nation, forces merely being acted upon it, as either vulnerable to communist exploitation or led down the 'right' path through the assurances of the US. In the "internal defense role" that is outlined for the US, the first tenet is described as the "immunization of vulnerable societies".¹⁹ The biopolitical logic of 'immunisation' refers to the strengthening of an immune system in order to make it resilient to infectious disease. Thus, the population itself must be strengthened against the spread of communist ideology. The policy stressed the importance of fore-fronting indigenous forces, in enabling the fruition of a nationalism, but one that was dictated in the 'correct' terms. Historical lessons for how to quell subversive elements were proposed as Greece, Malaya, and the Philippines. The Philippine 'campaign' is explicitly referenced as a model in "winning back the allegiance of the domestic popular base" through the "strategy of combining the use of force with reform measures".²⁰ Force alone was not enough faced with a population alienated through their poor quality of life. This civil-military blending focused upon the local level of the population, whose allegiance could only be secured through tangible improvements in economic and social development, according to the principles of modernisation. Engagement of the US with the strengthening of 'law and order' in countries receiving assistance was a step toward legitimacy and toward the 'correct' sovereignty.

¹⁶ Christian Olsson, "Legitimate Violence" in the Prose of Counterinsurgency: An Impossible Necessity? in *Alternatives: Global, Local, Political*, Vol. 38 No. 2 p.165

¹⁷ United States, *United States Overseas Internal Defense Policy* (September 1662)

¹⁸ US, *Overseas Internal Defense Policy* p.6

¹⁹ US, *Overseas Internal Defense Policy* p.10

²⁰ US, *Overseas Internal Defense Policy*, p.12

Assisting Police Power

Kennedy established USAID by executive order following the Foreign Assistance Act of 1961. The police assistance programme (under the heading 'Public Safety Program') that was carried out by the newly created USAID was conceived as a central tenet in the US promotion of 'social and economic development' in guiding processes of decolonisation. Essential to staving off any insurgency is the establishment of an effective, local police power. Public Safety Programs and police training in countries under the banner of the 'free world' had been organised along the lines of the previous foreign aid framework, the Mutual Security Act of 1951 (the replacement for the Marshall Plan). The maintenance of order and stability through the 'rule of law' had consistently been a central concern in the provision of assistance. In order to evaluate the transition to AID, a report was commissioned on the program, of the training both for indigenous police forces as well as the US advisors. In requesting the report, the three objectives were stated as:

- "A. Strengthen the capability of civil police and paramilitary forces to enforce the law and maintain public order with the minimum use of violence;
- B. Strengthen the capability of civil politics and paramilitary forces to counter Communist-inspired or exploited subversion and insurgency;
- C. Encourage the development of responsible and humane police administration and judicial procedure to improve the character and image of civil police and paramilitary forces, and bind them more closely to the community".²¹

The need to strengthen and improve training was the stated goal of this review: alongside the Kennedy administration fore fronting of counterinsurgency, police power was an important tool to harness in the maintenance of order and the strengthening of an internal vanguard to ward off insurgency.

The objectives echo many of the fears identified above, that a disillusioned populace - once alienated from the government forces - was susceptible to Soviet influence. A central question, not directly addressed, is that of legitimacy, which evokes the double bind of intervention in the modernisation process, ensuring stability with a firm hand at the tiller but without boots on the ground. The program itself was designed to offer US expertise, support, and technical know-how, in order to foster a police force capable of keeping the peace, upholding the rule of law, and respecting the rights of citizens. Focused upon the pedagogical efforts aimed at the individual officers, the "basic objective" was outlined as the emergence of "a cadre of Western-oriented foreign Public Safety officers", defined as officers "indoctrinated with Anglo-Saxon concepts of responsible and humane police administration and judicial procedure to improve the character and image of civil police and paramilitary forces, and bind them more closely to the community".²² Policing is the

²¹ 'Survey of tracing activities of the AID police assistance program' and accompanying letter to Mr. Thursston to carry on the review, (November 1962) in Folder Training AID police assistance, Holding, Human Rights, Box 3, National Security Archive, Washington DC.

²² 'Survey of tracing activities of the AID police assistance program' pp.14-15, they had to have "knowledge and

management of public order and stability: the attribution of "responsible" and "humane" policing to an inherently Anglo-Saxon heritage - which can be read as 'white' - conjures a violent and excessive Other: it is not only the populace who must be disciplined, but the police forces themselves must be trained in self-restraint. The reference to respecting citizens 'rights' is of an individual negative right, to be free from oppressive state measures. Liberalism is presented as a common-sensical constellation of order, individual rights, and the rule of law, a temperament that had to be imparted on the Other. This disciplining process would then ensure the creation of a sufficient community-police 'bond'. The recent worldwide protests against the systematic racialised terror wrought by the police in the US - and in many other Western states - once again torn the veil of the humane 'Anglo-Saxon' while also highlighting the institutional dogged belief in the righteousness. The mythology of the thin blue line also enforces a colour line.

The establishment of a police power, a notion arising in 15th century Europe as internal community order, is inherently linked to the notion of 'keeping the peace' - the domestic counterpart of the military²³. A constitution of a successful state, immunised against insurgency, was therefore linked to a responsibility taught to an adequate 'Western-orientation', along with the institution of 'humane' policing practices. The report culminated with the recommendation of an international police academy, that would be situated in the "immediate Washington area" to offer "in-house" training and courses. The curriculum would be tailored toward "counter subversive and counter-insurgency aspects of foreign police operations" while "hard indoctrination in the human relations-Anglo-Saxon concepts of law enforcement would also be given a prominent place in the curriculum".²⁴ The academy was established in 1963, presiding over 5000 graduates from 77 countries, eventually closing in 1973 amid Congressional opposition. Coinciding with the push from Congress for a human rights-oriented aid policy, accusations of implicit, even explicit approval of - or even training in - torture techniques, coincided with the push from Congress for a human rights-oriented international aid policy.²⁵ The violence exclusions that constitute 'Anglo-Saxon humanity' then also made it on to the curriculum. This civilian aspect of counterinsurgency in underdeveloped nations also closely followed the prominent modernisation theory. Alongside social and economic development, the possibility of sufficient, indigenous force - embedded within the community - were necessary to stave off any possible revolutionary fervour. The US-influenced cadre would proliferate the 'Anglo-Saxon' responsibility and humanity and manage any unrest through the developmental

skills necessary to carry out the development of human and technical resources at all organizational levels as necessary to provide effective internal security and maintain law and order within the assisted country".

²³ Neocleous, *War Power, Police Power*

²⁴ 'Survey of tracing activities of the AID police assistance program' pp.45-46 in the founding document, counter narcotics and countering extremist violence explicitly mentioned, Central Intelligence Agency, 'International Police Academy' (IPA) available at <<https://www.cia.gov/library/readingroom/docs/CIA-RDP79-00957A000100040076-3.pdf>>

²⁵ Dennis Keller, 'U.S. Military Forces and Police Assistance in Stability Operations: The Least-Worst Option to Fill the U.S. Capacity Gap' for *Strategic Studies Institute* (August 2010)

process (or even, because of). This modernisation encompassed the providing of advisors and training, as well as the provision of arms and equipment in prevention of disorder - the modern technological upgrade of Anglo-Saxon, US-oriented policing. Kennedy viewed the active support and extension of policing assistance as central to the Cold War front of counterinsurgency.²⁶

Observing the 'rule of law' as a constellation of economic and social liberalisation, involves the observance of (a specific notion of) human rights, as the rule of law is conceptualised by USAID as holding both the individual and the state accountable. While the constellation of meanings encompassed by the 'rule of law' is not fixed, 'rule of law' as enforced through policing power is informed through an individual, negative liberty²⁷. Aid, for inclusion in the Free World, is conditional. However, for those already mired in insurgency, such as in Vietnam, policing assistance was not enough: development would have to be imposed.

Vietnam: Doctrine-Building, Learning on the Job

The impetus for a comprehensive, cross-service recognition of guerrilla warfare resulted in the insertion of counterinsurgency at the doctrinal level of the US armed forces, *Counterguerrilla Operations Field Manual (FM 31-16)* released in 1963. Beyond inserting military expertise in the civilian sectors of social and economic development, the manual outlines the role of the military in direct combat with guerrilla forces, signalling a necessity for active US involvement when things get 'out of hand'. Aiming to subvert, kill, or capture guerrilla fighters, in order to quell any resistance movement, the outline of counter guerrilla operations is understood to comprise: police operations, including both population control and security; harassment of the guerrilla force through more unconventional tactics; conventional offensive operations; participation in civil improvement; and if necessary, halting any external support²⁸. The importance of the civilian population was recognised, as counter-measures had to be carefully calculated and explained as not to unwittingly stoke more support for the indigenous insurgency: "the civilian population must be apprised of the reasons for actions taken against it and must be made to understand that such measures are of a temporary nature and will be discontinued when cooperation is effected".²⁹ However, the very next point referred to the need to adopt a perspective of conventional warfare: "an area confronted with a serious guerrilla menace must be considered a combat area. Units in such areas must maintain the same alert and aggressive

²⁶ Rodrigo Patto Sa Motta, 'Modernising Repression: USAID and the Brazilian Police' in *Rev. Bras. Hist.* Vol. 30 No. 59 (2010) pp.237-266

²⁷ Alison J. Ayers, "'We all Know a Democracy When We See One": (Neo)Liberal Orthodoxy in the 'Democratization' and 'Good Governance' Project' in *Policy and Society* Vol. 27 No. 1 (2008) pp.1-13

²⁸ US Department of the Army, 'Field Manual: Counterguerrilla Operations': FM31-16 (Washington DC: Department of the Army, 1963) p.20

²⁹ FM 31-16 p.20

attitudes as forward troops in conventional war".³⁰ As Keinscherf has noted, the manual generally inserted counterinsurgency within a conventional framework, as a layer of additional skills to be contributed when the occasion called. The organisational structure of the forces remained largely unchanged, with specific measures laid on top, failing to devise a strictly counterinsurgency doctrine.³¹ The extra, more civilian-oriented roles, were encompassed within the traditional militarised logic. The section on 'police operations' does stress the need for indigenous civilian cooperation, coordination was to be assured through a "pacification committee" and operations revolved around a strict regimen of population control through disruption, such as in roadblocks, surveillance, curfews, and censorship, as well as security measures to protect the combat installations. However, as soon as a guerrilla force became too strong, and too embedded within the community, the operations become "conventional in nature", and "at this time, the force can be expected to turn its attention to the seizure and control of large parts of the country involved".³² Of course, the failures of counterinsurgency in the Vietnam War are well documented. After use of forces was authorised in 1964, and two marine battalions landed in March of 1965, the doctrine was initially put to one side as US involvement quickly escalated. It is important to examine the development and deployment of the logics of pacification - including the accompanying notions of unconventional force, necessary violence, and the spatialities of counterinsurgency - that were applied in Vietnam, as these stretch forward to the contemporary War on Terror, as well as back to colonising missions not only of the UK and France but of the US in the Philippines.

The turn to pacification in the Vietnam War in the late 1960s was the result of a series of failures and frustrations that had arisen since the US authorised war in 1964, where an uncomfortable combination of 'traditional' military strategies with 'unconventional' programmes had only dragged the US in further. Conventional search-and-destroy missions headed by General Westmoreland had adhered to attritional logics and failed to quell the insurgency, while the Strategic Hamlet Program which had begun in March 1962 in South Vietnam - carried out under the rubric of 'winning hearts in minds' - had in practice contained villages in barbed wire and bamboo fencing, enacting forcible resettlements into more practicable areas for defence and development. An attempt at a coordinated clear-hold-build strategy through civil-military coordination, Strategic Hamlets "were produced physical spaces where counterinsurgent force could intervene on the mentalities of inhabitants in hopes of indirectly inducing them to behave as entrepreneurial, resourceful, and self-reliant subjects constantly striving to improve themselves".³³ Organised through USAID, the hamlets were envisioned within a 'self-help' rationale, but in practice were often

³⁰ FM 31-16 p.20

³¹ Kienscherf, *Domestic and International Regimes of Security* pp.47-48

³² Kienscherf, *Domestic and International Regimes of Security*, p.37-47

³³ Attewell, 'Ghost in the Delta' pp.2261-2265 (quote on 2262); Ian Shaw, 'Scorched Atmospheres: The Violent Geographies of the Vietnam War and the Rise of Drone Warfare' in *Annals of the American Association of Geographers* (2016) p.10; James R. Arnold, *Jungle of Snakes; A Century of Counterinsurgency Warfare from the Philippines to Iraq* (New York: Bloomsbury Press, 2010) pp.188-190

reduced to a pastoralised process, whereby what were deemed as 'appropriate' projects were assigned and funded, and "local cadres" were instructed to bolster any possible "Achilles heel".³⁴

President Johnson met with Vietnamese leaders at the 1966 conference in Honolulu, in order to discuss the 'Other War', that is, the social, economic, and political factors of belligerence. A resulting declaration held the joint commitment to build a modern society, with a stable economy and democratic governance. While this was a military war, they declared it was more than that, the "war for the hearts of the people" was a "moral principle".³⁵ The recognition of this other war, this more-than-war, instigated an institutional re-shuffle. Robert Komer, formerly a staff member of Kennedy's National Security Council was appointed to lead the pacification effort - becoming the 'Other War special assistant', and General Abrams replaced Westmoreland in 1968 (in the wake of the My Lai Massacre).³⁶ Two 1970 reports, penned by Komer and published by RAND, reflected the doctrinal institutionalisation of 'pacification', and detailed the movement in Vietnam, attempting a preliminary assessment of this new 'model': *Organization and Management of the 'New Model' Pacification Program and Impact of Pacification on Insurgency in South Vietnam*. Pacification was defined by Komer as beyond merely territorial security, also encompassing a "constructive side" of "interlocking programs".³⁷ Primarily focused upon the countryside as vulnerable, security then encompassed not only military success and the isolation of the insurgent from its popular base, but the consolidation of support from the populace in the government, through politico-economic reforms and administrative management.³⁸ Isolation of the insurgent threat could only be maintained through a transformation of the everyday.

The emphasis upon the transformation of the socio-political environment can be linked to the influence of French counterinsurgency thinkers on the development of US pacification strategy. In 1963, RAND commissioned a report on the French Pacification of Algeria by David Galula on his personal experience: a Lieutenant Colonel in the French Army, Galula had served in Algeria and successfully 'restored' the district under his command to 'government control'. Galula focuses upon the struggle to gain and sustain the trust and control of the population through reform and provision of security in 'pacification zones'. In the four laws outlined as the 'Basic Principles of Counterinsurgency', the population are defined as the terrain of battle and Galula stresses the necessity of a concentrated effort in specific areas due to the huge expenditure required - even with the huge material superiority.³⁹ The report was later developed into a book, *Counterinsurgency Warfare: Theory and Practice*, a text listed as a 'classic' in the 2006 Counterinsurgency field manual.

³⁴ Attewell, 'Ghost in the Delta' p.2263

³⁵ Lyndon B. Johnson, 'The Declaration of Honolulu', Hawaii (8 February 1966)

³⁶ R.W. Komer, 'Organization and Management of the "New Model" Pacification Program - 1966-1969', Report for RAND (7 May 1970) p.26

³⁷ Komer, 'Organization and Management of the "New Model"' p.168

³⁸ R.W. Komer, 'Impact of Pacification on Insurgency on South Vietnam' Report for RAND (August 1970) p.2

³⁹ David Galula, *Pacification in Algeria 1965-1958* (Santa Monica: RAND Corporation, 2006)

The French precedents were not only theoretical, but the US entry into Vietnam followed almost eight years of hostilities, which had culminated in the failure of the French to pacify the region of Indochina after almost a century of colonial administration. Tracts on French 'counter-revolutionary warfare', as written by veterans of the Algerian war, were driven by a wish to convey an important lesson: that the "global conspiracy of barbaric, communist-inspired insurrections were not unbeatable", but rather, the shift in domestic opinion - horrified by the reports of torture - had betrayed the near-victory. A reading that was also appropriated by those championing counterinsurgency and pacification in Vietnam.⁴⁰ The influence of French counterinsurgency theory in Vietnam can also be witnessed in the Pentagon Papers on the subject of the Strategic Hamlets, which make reference to the 'oil spot' approach, a term coined by Lieutenant Lyautey in his 1909 article on the role of the colonial army.⁴¹

The institutionalisation of a pacification strategy, with the corresponding integration of civil-military operations, was enacted in the Civil Operation and Revolutionary Development Support program (known as CORDS). CORDS was presented as the humanitarian face of counterinsurgency, an inter-agency effort to win the 'hearts and minds' of South Vietnam, to build self-sufficiency through a revolutionary development upheld by military force.⁴² The rural communities of South Vietnam remained vulnerable to insurgent threat, and Komer emphasised economic revival as a central thrust of pacification, with programs organised through USAID such as New Life Development, Village Development, the opening of roads and waterways, and the production of 'miracle rice'. Komer emphasised locality, and self-help, along with the importance of stimulating economic growth, pacification being the attempt not to "overmilitarize" or "over-Americanize" the war.⁴³ These efforts at reconstruction, along the lines of a liberal modernisation model, attempted to build a 'successful' nation through the reorganisation of society and the management of ideal citizen-subjects of a capitalist state. The elevation of the everyday was a central pillar of security, where 'self-help' was mediated according to a specific framework of 'correct' conduct, controlling what was possible to ensure desirable behaviour. The training of Revolutionary Development cadre operated according to 'Eleven Criteria and Ninety-Eight Works for Pacification', which encompassed positive attributes such as education, health, agriculture, and communications, alongside the "annihilation" of insurgents and the task of "abolishing hatred and building up a new spirit". The list of aspirations can be seen as encompassing the foundations of a liberal welfare state, but one in which the violence of

⁴⁰ Alex Marshall, 'Imperial Nostalgia, the Liberal Lie, and the Perils of Postmodern Counterinsurgency' in *Small Wars & Insurgencies* Vol. 21 No. 2 (2010) p.242

⁴¹ Vietnam Task-Force: Department of Defense, 'United States-Vietnam Relations 1945-1967' [NARA Online] NND Project Number: NND 63316 <<https://nara-media-001.s3.amazonaws.com/arcmedia/research/pentagon-papers/Pentagon-Papers-Part-IV-B-2.pdf>>; For French colonial army see Michael Finch, *A Progressive Occupation? The Gallieni-Lyautey Method and Colonial Pacification in Tonkin and Madagascar, 1885-1900* (Oxford: Oxford University Press, 2013)

⁴² Robert J. Gonzales, "Human Terrain": Past, Present and Future Applications' in *Anthropology Today* Vol 24 No. 1 (February 2008) p.21

⁴³ Komer, 'Organisation and Management of the "New Model"' pp.120-126; Komer, 'Impact of Pacification' p.1

state power is more apparent, as Gibson argues the Government of the Republic of Vietnam (GVN) were in fact a "highly militarized market regime".⁴⁴ The GVN minister of Revolutionary Development described the process as "destroying the present gloomy, *old life* and replacing it with a *brighter and nicer new life*": the 'new life' imagined along the lines of a "modern' distribution of persons and commodities".⁴⁵

Alongside the controlled modernisation, the corresponding exclusion of insurgents and forced transformation or uprooting of potential sympathisers informed the more martial, intelligence-driven arm of Revolutionary Development, known as the Phoenix Program. What was referred to as the process of 'neutralisation', combined a bureaucratised informational and intelligence web with the paramilitary force of the National Police, to capture and convert, or kill insurgents. Neutralisation being the most overt of the thanatopolitical practices in the management of the populace. The program was launched as an effort to collect intelligence about the NLF across various agencies, and this bureaucratised methodology maintained and collated blacklists and dossiers of both suspected and known communists. Named after the all-seeing bird - 'Phung Hoang' - and translated to Phoenix - the Infrastructure Coordination and Exploitation Program drew information from the CIA and the South Vietnam security services, including the Vietnam Bureau of Investigation which held detailed records including the 1962 family census.⁴⁶ Beyond this digitised information source, interrogation was systematised to gain intelligence on the ground on suspected insurgents hiding amongst the mass. In a stark separation of safe and risky life within juridico-spatial reconstruction, the CIA funded in each province a Province Interrogation Centre, and those captured were subject to 'post-operational' processes in 'Screening and Detention Centres'. If found innocent, they would be given water, a medical examination, and the friendly faces of the Revolutionary Development cadre; those found guilty were forwarded to interrogation and incarceration, sites of alleged brutal human rights violations.⁴⁷ The conflation of communist with a nationalist struggle for self-determination, informed a singular construction of the enemy, hidden within, that ultimately placed many under suspicion. The centralisation and digitation of data and communication ushered the era of a 'computerised blacklist', a technology which "articulated the conditions through which populations were rendered intelligible to state power".⁴⁸ The objective of CORDS was to *know* the population, to transform the everyday life of the people, in both the martial and the socio-economic arms of the programme. The fact that this deadly violence is conceptualised within pacification alongside the reconstruction of the Vietnamese society in order to gain the trust and compliance of the population, is an important facet in the conceptualisation of the population-to-be-known and the population-to-be-secured. That security of reconstruction demands a selective

⁴⁴ James William Gibson, *The Perfect War: Technowar in Vietnam* (Boston: Atlantic Monthly Press, 1986)

⁴⁵ Neocleous, "Brighter and Nicer New Life", pp.197-198

⁴⁶ Ian Shaw, *Predator Empire: Drone Warfare and Full Spectrum Dominance* (Minneapolis: University of Minnesota Press, 2016) pp.96-98

⁴⁷ Attewell, 'Ghost in the Delta pp.2267-2270; Shaw, 'The Violent Geographies of the Vietnam War' pp.9-11

⁴⁸ Shaw, *Predator Empire*, p.96; Shaw, 'The Violent Geographies of the Vietnam War' p.11

destruction of the bodies of insurgents and the environments known to produce hostile elements.

The Human Terrain System implemented in Iraq - discussed below - has been both celebrated and derided as a 'CORDS of the 21st Century', a population-centric technology of 'humanised warfare'.⁴⁹ The technologies of CORDS certainly took the population as their terrain: a population to be known, a population to be modernised - and those who cannot conform to the "brighter, new life" must be neutralised. The malaise festering in a seemingly endless war was compounded with a moralistic concern prompting re-evaluation of US international engagement, informing the Congressional aid conditionality reforms discussed in chapter two. The domestic backlash to the war to the war led many citizens to question the power of the US military, and the responsibility carried with their global presence, leading to what Bacevich refers to as a loss of the national security consensus - shaking the validity of semi-war. The military dominance of the US has been premised upon the duty to spread universal values, sustained through power projection, interventionism, and global presence: Vietnam seemed to discredit both the means and the motive as dysfunctional and untenable.⁵⁰ The War Powers Resolution passed in 1973 - passed by Congress overriding President Nixon's veto - limited the Presidential authority to deploy troops only as a response to a declaration of war, a 'specific statutory authorization', or a direct attack, although the ambiguous notion of 'imminence' was also included.⁵¹ This posed a challenge to the "p penchant for global interventionism", followed by a spate of further Congressional acts and investigations into covert activities, seeking to curb the executive power over both overt and covert deployment.⁵² However, this focus upon convention, tightening restrictions, and keeping America's nose clean, informed the reorientation of the military, as well as the designation of these 'other' wars.

Lowering the Intensity: Military Operations Other Than War (MOOTW)

David Ucko describes what he terms a "counterinsurgency syndrome" which has pervaded the history of the American Army.⁵³ This condition certainly flared up at the end of the Vietnam War. The wounded US Army focused its gaze upon potential existential conflict against the Warsaw Pact. A systematic evaluation of the war just fought was not undertaken, as this would imply a duty to prepare for, and therefore fight, a future insurgency.⁵⁴ The doctrinal revaluation of the army - driven by fears of a huge advance in

⁴⁹ Jacob Kipp, Lester Grau, Karl Prinslow, Captain Don Smith, 'The Human Terrain System: A CORDS for the 21st Century' in *Military Review* (September-October 2006) pp.8-15; Gonzalez, 'Human Terrain'.

⁵⁰ Bacevich, *Washington Rules* p.122

⁵¹ United States Congress, 'War Powers Resolution: Joint Resolution Concerning the War Powers of Congress and the President' Senate (7 November 1973)

⁵² Bacevich, *Washington Rules*, pp.126-127

⁵³ David Ucko, *The New Counterinsurgency Era: Transforming the U.S. Military for Modern Wars*, (Washington; Georgetown University Press, 2009) pp.27-29

⁵⁴ Jeffrey Record, 'The American Way of War: Cultural Barriers to Successful Counterinsurgency' (September 2006) p.15

Soviet technology and their superiority in numbers - culminated in the 1980s in the AirLand Battle Doctrine, which emphasised the importance of mobility and the combined power of joint operations with the air force to achieve decisive victory. However, a special place was marked out for unconventional forces, as the Army advocated for maintenance of Special Operation Forces for the provision of "low intensity conflicts". An umbrella term, this describes a plethora of operations 'at the low end of the conflict spectrum'. The widespread claim of the novel blurring of war and peace in the war on terror is dispelled here, as it is asserted "LIC poses a threat to US interests at all times, not just in periods of active hostilities".⁵⁵ The nature of struggles of 'lower intensity' are all those emerging from the Third World, where the adversaries are "irregular or unconventional forces" as well as terrorists, and the US response must entail "economic and political actions as well as military activities".⁵⁶ The logic of order-building was recognised within the scope of the US army operating in a 'low intensity conflict'.

The new vision of warfare and recovery of the Army embodied within operational and tactical doctrine were also manifest in the strategic doctrine adopted by the Pentagon. In a speech delivered on the 28th of November 1984, the Secretary of Defence Caspar Weinberger proposed six tests to be applied when considering the use of force, which widely became known as the 'Weinberger doctrine'. Weinberger opened the address by highlighting an enduring and difficult question in the foreign policy of democratic polities: the decision to deploy military force. Stressing the importance of consensus in democracy, Weinberger holds as crucial public support and understanding of basic principles and goals in reaching this most painful decision to use force. The moral certainty generally assumed within the decision to wage war he notes as becoming increasingly fogged by a lack of distinction between war and peace, posing great difficulty to the foundations of democratic governance. This liminal space of war-peace is characterised as a "gray area", encompassing a "spectrum of threats", the fronts of the Cold War being fought on the Global periphery of the Third World: "so blurred have the lines become between open conflict and half-hidden hostile acts that we cannot confidently predict where, or when, or how, or from what direction aggression may arrive. We must be prepared, at any moment, to meet threats ranging in intensity from isolated terrorist acts to guerrilla action, to full-scale military confrontation".⁵⁷

With reference to the unprecedented powers influencing decisions on the use of force by Congress, Weinberger urged for a recognition of responsibility in timely deployment, prepared for the task at hand: "while we do not seek to deter or settle all the world's conflicts, we must recognize that, as a major power, our responsibilities and interests are now of such a scope that there are few troubled areas we can afford to ignore. So, we must be prepared to deal with a range of possibilities, a spectrum of crises, from local insurgency

⁵⁵ US Department of the Army, 'Field Manual 100-5' (Washington DC, Department of the Army 1986) p.4

⁵⁶ FM 100-5, p.4

⁵⁷ Caspar W. Weinberger, 'The Uses of Military Power', Address to the National Press Club, Washington DC (28 November 1984)

to global conflict".⁵⁸ The perpetuation of this doctrine into the administration of George H. W. Bush was assured by its advocate General Colin Powell who assumed the position of the chairman of the Joint Chiefs of Staff in 1989. The decisive victory in the Gulf War, resulting in the liberation of Kuwait in 1991, appeared to validate the legitimacy of the doctrinal trajectory of both Weinberger and AirLand Battle. This signalled the apparent redemption of the American Army, haunted by the collective memory of the Vietnam War. The efforts of renewal following defeat and the turn away from irregular warfare appeared vindicated by the superiority of American conventional forces. Powell wished to exploit the success by framing Operation Desert Storm as the prototype for future warfare, developing what became the 'Weinberger-Powell Doctrine'. This was an overtly military endorsement of the Weinberger principles and seizing upon the rise in prestige of the armed forces two further considerations were applied; an assured exit strategy and emphasis upon overwhelming force to ensure the rapid conclusion of operations. The Powell vision of future American war "would look very much like Desert Storm – brief, economical, operationally (if not politically) decisive, and, above all, infrequent".⁵⁹ This understanding of warfare conveyed a dichotomy between war and peace which equated the end of operations with stability. Therefore, all branches of 'low intensity conflicts' were ignored in the belief that America should become involved only when a decisive victory could be achieved through the use of force.

Beyond strategising, the operations that were actually being carried out by the military fell under the category of 'low intensity'. Army doctrine in the 90's reflected the tenets of AirLand Battle and the Weinberger-Powell Doctrine, bringing to bear overwhelming force to achieve a swift culmination of operations. Field Manual 100-5 *Operations* 1993 stated: "The Army must maintain the capability to put overwhelming combat power on the battlefield to defeat all enemies through a total force effort [...] and to win quickly with minimum casualties".⁶⁰ The Desert Storm paradigm was established in doctrine, envisioning swift, decisive action with limited casualties. However, the actual operations required of the Army in the period between the Gulf and Iraq Wars did not conform to that anticipated in doctrine. The US participated in many protracted, uncertain, and unconventional operations in situations of humanitarian emergency including, Operation Provide Comfort in Iraq and Turkey, Operations Provide Relief and Restore Hope in Somalia, Operation Deliberate Force in Bosnia, Operation Uphold Democracy in Haiti, and of course, the NATO Operation Allied Force in Kosovo. Despite the frequency of these engagements, the continued low prioritization was made evident by the introduction of a new term; 'military operations other than war'.⁶¹ This ambiguous, umbrella term encompasses a plethora of actions including peacekeeping, humanitarian assistance, countering terror, counterinsurgency, while the label highlights the continued derision and perception of this wide range of

⁵⁸ Weinberger, 'The Uses of Military Power'

⁵⁹ Andrew Bacevich, *The New American Militarism: How Americans are Seduced by War* (Oxford: Oxford University Press, 2013) p.52

⁶⁰ FM 100-5, pp. 1-5

⁶¹ Fred Kaplan, *The Insurgents: David Patreaus and the Plot to Change the American Way of War* (London: Simon & Schuster, 2013) p.45

operations as aberrations. The Clinton administration's military structure was organised according to the threat of 'backlash' regimes' causing instability in the developing world: the Pentagon prepared to fight two regional wars simultaneously.⁶² In the wake of the Battle of Mogadishu, the Clinton administration issued the Presidential Decision Directive 25 on peacekeeping followed by the Army Field Manual 100-23 *Peace Operations* in 1994. While recognising the utility of "well-conceived" and "well-executed" peace operations in "promoting democracy, regional security, and economic growth", "the primary mission of the U.S. Armed Forces remains to be prepared to fight and win two simultaneous regional conflicts".⁶³

There existed elements within the American Army who rejected the doctrinal tendency to prepare exclusively for the type of warfare it wanted to fight. These elements, stemming largely from the Social Sciences Department of West Point, believed counterinsurgency would again be necessary and that the Army would once again be found lacking. Kaplan states the "COIN rebellion was fomented by a subculture within the academy, composed of officers who venerated tradition but also embraced standards of progress".⁶⁴ David Petraeus, who would later rise to prominence in the Iraq War, provided a driving force behind this movement. While in France and Italy early in his career, Petraeus developed an interest in classic British and French counterinsurgency theory which would have a profound influence on his thinking concerning the US Army and their troubled relationship with this form of warfare, particularly David Galula's *Counterinsurgency Theory: Theory and Practice*.⁶⁵ As the Weinberger Doctrine rose to prominence, instilling the aversion to small wars, Petraeus travelled to Panama in 1986 as an aide to General Galvin, the head of the U.S. Southern Command. This was his first encounter with any level of conflict and upon arrival, it was clear that violence and insurgencies raged throughout Latin America. The limited American involvement was informed by the doctrinal definition of this as a 'low intensity conflict'; therefore not a 'war'. This was the specific realm of Special Forces, not for the intrusion of other armed forces in fear of escalation.⁶⁶ The blinkered vision of the top echelons of the institution was clear to officers facing the trials of what was considered merely a distraction. While in Panama, he ghost wrote an article for Galvin named *Uncomfortable Wars: Towards a New Paradigm* which criticised the tendency within the Army to construct a view of the enemy and potential threats that comfortably coalesce with preconceived notions; unquestioningly accepting these until disaster strikes.⁶⁷ The article argued that 'low intensity conflicts' were multiplying and demanded the attention sorely

⁶² Susan L. Woodward, *The Ideology of Failed States* (Cambridge: Cambridge University Press, 2017) p.34

⁶³ William Clinton, Presidential Decision Directive 25 'Reforming Multilateral Peace Operations' (3 May 1994); See also, US Department of the Army, 'Field Manual 100-23 Peace Operations' (Washington DC: Department of the Army, 1994)

⁶⁴ Kaplan, *The Insurgents* p.5

⁶⁵ Fred Kaplan, 'The End of the Age of Petraeus' in *Foreign Affairs* 92/1 (Jan/Feb 2013) p.2

⁶⁶ Kaplan, *The Insurgents* p.26

⁶⁷ John R. Galvin, 'Uncomfortable Wars: Toward A New Paradigm' (Washington DC: Department of the Army, 1986) p.2

lacking when doctrine and training were developed according to the prevailing perception of modern warfare. The concluding thought was "a plea for flexibility and an open mind" enabling young leaders to 'reflect' on the developments outside of the military institution; "only then will they develop into leaders capable of adapting to the changed environment of warfare and able to fashion a new paradigm that addresses all the dimension of the conflicts that lie ahead".⁶⁸ While these voices began to emerge, arguing for doctrinal change to reflect the reality of the rising threat of so called 'low intensity conflicts', the overwhelming victory of Operation Desert Storm secured the supremacy of the existing paradigm.

Small Wars and the 'Liberal Lie'

This derision of 'small wars' or 'other-than war', is not a peculiarly US, post-Vietnam phenomena. In triumphalist tracks of the American way of war, the US-Philippine war is lucky to get a mention. In conceptions of 'civilised' conduct in battle, past brutalities are remembered instead as culturally nuanced and restrained operations in a colonial amnesia. This is disciplined in histories of European military thought, as Alex Marshall notes in the reverence of military thinkers: where Clausewitz and Jomini, to the prophetic thinking of J.F.C Fuller on armoured warfare, as informed by dramatic upheavals, "political, social, technological and economic in nature". Analyses of these revered war thinkers often characterise Clausewitz and Jomini as personifying two well-springs of European philosophical thought, the positivist tradition and the corresponding German romantic movement. Alongside the production of these lasting European tracts on the art and nature of warfare, wars were being waged by European powers that did not fit this mould. What are known as the 'small wars' of empire, were wholly incapable of being understood through the formulaic knowledge produced on war by this positivist tradition, wars in Africa and Asia "rendered the generation of universal rules and principles difficult, while exposing to an even greater degree the dynamic imponderables of 'war amongst the people' that so stirred Clausewitz".⁶⁹ The influence of these two traditions is noted by Marshall in the varied response to colonial administration: the consumption and collation of statical evidence on the populations of these societies, under the Enlightenment rubric that 'knowledge is power', and the romantic image of the 'noble savage'.

The conflicts to halt imperial decline in the 20th Century by the British counterinsurgency strategy of 'imperial policing', intended to maintain the cultural, political, and economic hegemony of the metropole, were based upon the British presupposition of legitimate authoritative and judicial power. As described earlier, the constitution of international law fundamentally excluded those sites which did not meet the 'standards of civilisation', thus without the status of bonafide nation-stateless (or almost), the protections of law were null.⁷⁰ Under the contemporaneous international law, insurgency or rebellion did not

⁶⁸ Galvin, 'Uncomfortable Wars' p.7

⁶⁹ Marshall, 'Imperial Nostalgia, The Liberal Lie', p.235

⁷⁰ See Chapter 3.1.

constitute 'war', therefore the notion of imperial policing has contributed to the myth of a benign or moderate force. The prevalent idea in the military (and beyond) that the final episodes of British imperial rule engendered a 'minimum force' philosophy, is described by Marshall as the "Liberal Lie".⁷¹ The ascription of 'small wars' - wars of lesser or of lower intensity, as operations that are aside from war - characterises this violence as a side-show to 'large' wars in a hierarchical manner. The period between the Napoleonic Wars and the First World War has often been characterised as the hundred years of peace. That is, relative peace *within* Europe. The ways in which we study and reproduce the reality of warfare - what we count as 'war' - continue to contain a notion of war as a declared state of military engagement between nation states. This hundred years of peace is underwritten by colonial wars of capital accumulation, slaughter, and suppression. The ascription of 'war' denotes a relational framework between belligerents, which is structured through the laws and codes of just conduct. Pacification as it is understood within war studies and military history, is relegated solely to small wars and "thus used to dismiss such wars as little more than a sideshow to the progress of capitalist modernity".⁷² This relegation enables the twin logics of policing and war to create pacified social spaces - that is, secured and controlled to standards of 'good conduct' amenable to capitalist order.

This asymmetry of war can refer not only to available firepower but to an essentialised image of differentiated 'cultures' of war. A structuring orientalism, which Gregory posits as a fundamental logic of the War on Terror, constructs the Other as a place of exoticism, strangeness, and the pathological; this space must then be disciplined through the expeditionary imposition of order, thereby freeing the population from the fundamental 'lack' which endangers not only themselves but international security.⁷³ Interrogating the 'cultural turn' of the US army in Iraq, Porter proposes a 'military orientalism': drawing upon these white-washed histories of 'small wars', American and British officers in the 2000s looked back to the art of British Imperial 'small wars' and the 'liberal life' of the 'light footprint' enabled through a nuanced cultural insight, ultimately an "ahistorical colonial nostalgia".⁷⁴ Through a highly selective, self-referential construction of a Western Way of War, the dichotomy between esteemed soldier and Third World warrior constitutes a cultural image of the different societies as well as their war-waging. The arrangement of a 'pitched battle' is an ideal image of the West, denoting a formality, mutuality, and civility, whereas the history of Western warfare, from the Trojan horse to Total War unsettles this idealised image of an aristocratic duel. Religious fanaticism and suicidal martyrdom serve as the ultimate Other in the characterisation of 'primitive' or 'tribal' wars, where the presentation of a strange and barbarous strategic culture reflects the apparent shortcomings in their wider culture. This dichotomy fails to recognise discontinuities, such

⁷¹ Marshall, 'Imperial Nostalgia, The Liberal Lie', pp.240-241

⁷² Neocleous, Gigakos, Wall, 'On Pacification' p.3

⁷³ Derek Gregory, 'The Rush to the Intimate; Counterinsurgency and the Cultural Turn' in *Radical Philosophy* Vol. 150 (July/August 2008) pp.8-23

⁷⁴ Porter, *Military Orientalism*, pp.58-59

as the Iraq-Iran war as the longest conventional war of the twentieth century. Monopolising an idealised image of civilised belligerence reproduces homogenised, Orientalised notions of cultural Otherness, which functions as a hierarchy of 'legitimate violence'.

A US Marine Corps Manual from 1940 dealt with the subject, *Small Wars*. Recognising the diverse array of operations under this umbrella, small wars are defined as a combination of military force and diplomatic pressure in "the internal or external affairs of another state whose government is unstable, inadequate, or unsatisfactory for the preservation of life and of such interests as are determined by the foreign policy of our Nation".⁷⁵ US involvement in small wars is then viewed as humanitarian, as the range of methods deployed in sovereign spaces is legitimised through the inability of host government to fulfil its duties. The importance of psychology is detailed later in the document, not only due to the dispersed nature of small wars but also as the troops are "dealing with a strange people whose racial origin and whose social, political, physical, and mental characteristics may be different from any encountered": the study and understanding of these 'strange people' is paramount in achieving the aim of small wars, "the social, economic, and political development of the people".⁷⁶ The reduction of the enemy to a cultural trope, leaves little room to recognise political grievance, and reproduces a fundamental misunderstanding of political agency, with major shortcomings for theorising, planning, and waging 'other' wars.

Knowing your Enemy: Pacification as Counterterrorism

The failure to restore peace in Afghanistan and Iraq, after both had initially appeared to be overwhelming victories and descended into violent insurgencies, gave rise in 2006 to the ascension of counterinsurgency theory, as a reshuffle and reacquaintance with asymmetric methodologies. The turn to counterinsurgency, placed learning and adaptation at the forefront of US strategy - not only as central to successful counterinsurgency operations but as a general rule to ensure the US is prepared to fight the right war at the right time. While the official army doctrine had maintained a conventional approach, many military analysts and members of the armed forces had turned toward Vietnam, in search of lessons for the present, to ward off long and grinding failure. Knowledge was placed at the forefront of the counterinsurgency strategy, knowledge of the enemy, of the population, and of the self. General Patreaus is one of the highest profiles of the drafters of the 2006 *Counterinsurgency Field Manual* (FM 3-24) as well as overseeing its implementation in the 2007 surge. The field manual emerged out of intense debate within the military on how to manage the post-interventionary stage. The growing insurgency forced the admission of huge failure in phase-IV planning. The writing and rewriting of the manual took place across a conference held in February 2006, which facilitated encounters between political scientists, human

⁷⁵ US Marine Corps, 'Small Wars Manual' FMFRP 12-15 (Washington DC; US Government Printing Office, 1949) p.1

⁷⁶ Marine Corps, 'Small Wars Manual' p.17

rights experts, cultural anthropologists, and the military in facing this 21st century threat.⁷⁷ The importance of learning - both on the ground and before deployment - to ultimate success is stressed in the introduction to the manual: "In COIN, the side that learns faster and adapts more rapidly - the better learning organization - usually wins.

Counterinsurgencies have been called learning competitions. Thus, this publication identifies "Learn and Adapt" as a modern COIN imperative for U.S. Forces".⁷⁸ Patraeus argued that due to the overwhelming conventional military power of the US, enemies are more likely to resort to asymmetrical tactics - a skill they therefore must become accustomed to. Arguing that 'small wars' were to become the norm rather than the exception in the 21st century (but of course they have been considered an exception for centuries in spite of their frequency) Patraeus advocates the championing of education which would encourage values of reflection and introspection, necessary to fight a counterinsurgency in a wholly different cultural milieu.⁷⁹ This continual development also translates into the specificities of the operation and the intricacies of interaction with the local population, also commenting upon the need to foster cultural sensitivity, to develop strategies for policing, as well as vital skills such as language.⁸⁰ Insurgencies are characterised in the manual as networked entities, Anderson proposes three practices of knowledge formation on insurgencies that contribute to the predictive countering: first, understanding the networks as in constant formation, and attempting understand the different forms across varying connections coalescing more or less; to know the insurgency through their activities, to unearth a pattern of insurgency formation; and finally, there are 'link diagrams' to discern links between events, and therefore to predict and preempt future activity.⁸¹ The insurgency as in constant emergence places the focus upon the population, not only as providing cover but also sustenance. The population is thus a source of constant suspicion, the potential of this mass constantly between friend and foe.

The blurring between civilian and military roles necessary in counterinsurgency operations was reflected in the formation of the doctrine. In the University of Chicago Press edition released in 2007, the director of the Carr Centre for Human Rights Policy in Harvard, Sarah Sewell, wrote an introduction to this 'Radical Field Manual'. Sewell introduces the 'radical' nature of this new strategy in challenging the contemporary American way of war. The will for such a change is placed not only on the anxiety to win but also from a 'moral anxiety' gripping the public. The interest, and appetite, for change is evidenced in the over 2 million downloads of the document in its first two months of public access on the internet. Legitimacy is a pervasive theme throughout Sewell's contribution. In the difficulty of preserving US moral dignity, she notes that "low-tech insurgents corrode the American way

⁷⁷ Ben Anderson, 'Population and Affective Perception: Biopolitics and Anticipatory Action in US Counterinsurgency Doctrine' In *Antipode* Vol. 43 No. 2 (March 2011) p.206

⁷⁸ US Army, Marine Corps, *US Army Field Manual 3-24* (Chicago: The University of Chicago Press, 2007) p.ii

⁷⁹ David Patraeus, 'Learning Counterinsurgency: Observations from Soldiering in Iraq' in *Military Review* (January-February 2006) pp.2-12

⁸⁰ Patraeus, 'Learning Counterinsurgency' pp.7-9

⁸¹ Anderson, 'Population and Affective Participation' pp.211-212

of war by exploiting traditional ethical and legal constraints on the use of force", situating this question within a broader historical struggle with the use of legitimate force and its necessity.⁸² The connotations pose a law-abiding US - struggling with the application of force - against an indiscriminate insurgent pushing the boundaries of Western humanity. However, Sewell argues that in the face of popular disillusionment, 'fighting well' is a necessary corollary to fighting the righteous war which combines humanitarian and strategic interests. While acknowledging the colonial inspirations of the manual, Sewell argues that the 21st century context is considered as "the implicit and explicit standards of behaviour have evolved" to take into account the "international rights standards, expirations of accountability, and the transparency that accompanies the modern world", and all this while faced with an enemy who will eagerly kill civilians, engage in suicide missions, and acquire weapons of mass destruction (which of course the US own, but legitimately).⁸³ This fight for legitimacy is ultimately placed within the legitimacy of the nation-state and the statist-norm of the international.

Counterinsurgency is a warfare to protect a "fragmenting international order", it is warfare of stabilisation as Sewell argues that "it must do more than simply buttress a government in order to legitimate a state. It must buttress the multiple failing state structures to legitimise the interstate system".⁸⁴ Ultimately the objective is to buttress and support (appropriate) local powers that are judged to be legitimate (by the intervening power), in order to "contain security threats, forcing terrorism and internal threats back into a criminal, or even political, box".⁸⁵ Transposing these threats *back* into a criminal sense, refers to belligerence beyond the national border. The US then has had to assume the pacifying role of the police in upholding the 'rule of law', the capabilities it must now create in Iraq, returning to police and criminality. The strengthening of internal stability and establishment of a legitimate host nation government was to stabilise the international threat posed by networked insurgents. The counterinsurgency manual is suggested by Sewell as a document of how to fight wars *well*, how to adhere to the restrictions of just war, thus informative on how to enter wars legitimately - such a supposition presupposes a legitimacy upon the intervening power in supporting a capable host nation government (within the interstate system).

Addressing the concerns of the humanitarian credentials of the manual, the issue of 'walking the walk', Sewell refers to the "unprecedented collaboration (of) a human rights center partnered with the armed forces to help revise the doctrine" as addressing difficult and "sensitive" issues such as "detainee treatment and escalation of force", remaking that "a touch of idealism, buttressed by extraordinary faith in the U.S. Soldier and Marine, coursed through the workshop and materialized in the manual".⁸⁶ The endorsement by a

⁸² Sarah Sewell, 'Introduction to the University of Chicago Press Edition' of *A Radical New Field Manual*, US Army FM3-24 p.xxii

⁸³ Sewell, 'Radical New Field Manual' p.xxxiv

⁸⁴ Sewell, 'Radical New Field Manual' p.xlii

⁸⁵ Sewell, 'Radical New Field Manual' p.xliii

⁸⁶ Sewell, 'Radical New Field Manual' p.xxxiii

leading human rights academic, the director of the Harvard centre, is fundamentally bound up with legitimacy in war-making, and the question of waging a just-war. The problem of legitimacy is inherent to the practice of counterinsurgency, an intervening power attempting to restore legitimacy to a space rendered problematic. The restoration of the 'rule of law' speaks to this distinction between 'liberal' legitimate violence - to 'restore' order - against the illegitimate chaos of the insurgent. Pacification is concerned with establishing this differential of legitimacy. Sewell makes explicit many of the presuppositions - commonplace in political science - which underpin the assumptions of (inter)national order perpetuated by the manual. Olsson interrogates the reification of legitimate violence as located within the state - which holds the 'monopoly'. The state, as the site of the right to give rights, is justified through adherence to the 'rule of law' as a pacifying force of domestic peace, however the presumption of legality in the violence of counterinsurgency is argued to lie in its discriminatory use. The formative character of violence is key to the risk calculations of the counterinsurgent - as the Manual claims they must know "when more force is needed - and when it might be counterproductive"; therefore, in the use of violence, it is the character of the violence used that confers legitimacy. The "inherent characteristics of the violence itself" is framed as lending legal legitimacy, not judicial restraints or procedural mechanisms: "the rule of law does not act as an external constant upon the use of armed force; it is the self-proclaimed use of discriminate force that establishes the rule of law".⁸⁷ While adopting the language of the rule of law, host nation, rule of law, the manual completely negates the boundary between the domestic and the international and the related separation of the police and military, reifying the 'legitimate violence' of the expeditionary force.

Counterinsurgency places the contest for the support of the population at the centre of the struggle. The counterinsurgent is demanded to have expertise in "governance, economic development, public administration, and the rule of law": the population must be offered an alternative better than the insurgency, which is then understood to incur the social, political, and economic development of the state, an improvement of the everyday.⁸⁸ Countering insurgency then entails the perpetuation of a particular way of life - that has been characterised as a 'good life' - and the insistence upon these structures as the way to maintain security. Beyond the good/evil distinction that constitutes the terrorist as absolute Other, the insurgency framework installs a nuance, and the possibility of salvation for some, who submit to order. The population as mass is a state between friend and enemy, counterinsurgency anticipating the shift toward enmity. The differences in the society can be pacified - that is, destroyed and restored - and from this positive, productive shift, the insurgent population can be secured and become self-sufficient.⁸⁹ As a war fought 'amongst the people', ultimately war 'for' the people, restraint is necessary not only to avoid civilian

⁸⁷ Olsson, 'Legitimate Violence' p.166

⁸⁸ US army, FM 3-24 p.liv

⁸⁹ Bell, Evans, 'Terrorism to Insurgency'; Anderson, 'Population and Affective Perception' p.213

deaths but the alienation of the population.⁹⁰ As a war amongst the populace, the manual describes counterinsurgency as assuming the "responsibility for the peoples well-being in all its manifestations", and these needs include protection from violence and coercion, the provision of essential services, the management of "key social and cultural institutions", generally understood as "aspects that contribute to a society's basic quality of life".⁹¹ Providing and protecting the life of a population is then understood to comprise biological needs such as physical safety, food, and water, essential services organised through the state, and finally sustaining a particular way of life, that are understood as constituted through cultural practices. Cultural knowledge is vital, Petreaus stresses the value of a nuanced understanding of culture as divergent - but valid - ways of life: "American ideas of what is 'normal' or 'rational' are not universal".⁹² It is through an understanding of 'culture' that David Kilcullen - Chief Strategist in the Office of the Coordinator for Counterterrorism in the State Department and an advisor to Patreaus during the surge - argues that the US can understand insurgent violence. By employing the paradigm of insurgency, Kilcullen claims that beyond a purely military or policing problematic, counterinsurgents can grasp the 'whole-of-government problem' of which insurgency is a symptom. Beyond the terrorist problematic of terrorism, where perpetrators must be eliminated, at root is a problem of population - the relation of the insurgent to the population - which demands an understanding of 'culture': "culture imbues otherwise random or apparently senseless acts with meaning and subjective rationality".⁹³ Military force is but one aspect, and protection is recognised as encompassing the biopolitical management of the population, fostering within the population a framework of 'good', 'productive', and 'healthy' life, against the dangerous and pathological insurgent. The end-goal is fundamentally statist, as fostering the support of the people in the host nation government and depriving the insurgency of any base.

The pacification of the local population, and the chokehold placed on the insurgency, the winning of the hearts and minds, combines the destructive force of war with the construction of a socio-economic environment to transform the everyday life of the population, the installing of 'good governance' that will ultimately enable the practice of self-rule. Liberal ways of rule and liberal ways of war are inherently intertwined in counterinsurgency, as a struggle over the 'right' way to life. The manual refers to the dual role of the armed forces:

"Soldiers and Marines are expected to be nation builders as well as warriors. They must be prepared to help reestablish institutions and local security forces and assist in rebuilding infrastructure and basic services. They must be able to facilitate local governance and the rule of law".⁹⁴

⁹⁰ US Army, FM 3-24, pp.154-174

⁹¹ US Army, FM 3-24 pp.60-67

⁹² US Army, FM 3-24 p.27

⁹³ David Kilcullen, 'Countering Global Insurgency' in *Journal of Strategic Studies* Vol. 28 No. 4 (2005) pp.612-613

⁹⁴ US Army, FM 3-24 Forward (Patraeus, Amos)

Providing security not only for the population but for the international, the state must be rebuilt, to the standard of the intervening power. These ungoverned spaces and populations, in the global South, are then subject to a combination of both biopolitical and geopolitical power: many advocates of counterinsurgency argue in the terms of the interlinkages of development with security - the complex interconnected threatscape has huge induced overlap between human security and US national security.⁹⁵ The problematics of liberal security sustain these twin logics within the global humanitarian mission, that must address the biopolitical threats that emerge from within itself, through targeted intervention in those sites of danger. Human security is intimately bound to the state, as it is the state which ultimately provides to their populations the goods, services, and protection that constitute human security, and when states are found wanting, the international community of responsible states are duty-bound to intervene. The complex emergencies that are said to arise from underdevelopment, fomenting terrorism, insurgency, and civil war, thus demand intervention which transforms society in a lasting post-interventionary engagement of building the self-reliant, successful nation. The similarity between human security proponent Mary Kaldor's - also known for the 'new wars thesis' - characterisation of bad neighbourhoods as breeding grounds for threats that could spread into the good, with the Pentagon's 'arc of instability' is stressed by Kienscherf, who argues that the fundamental logic reflects the division of the globe into "an integrated metropolitan system of stable states" and a "peripheral global borderlands".⁹⁶ Counterinsurgency is presented as the course of treatment for the infectious spread of insurgency and violence, by stemming the bad circulations and installing good governance. The characterisation of the failed state - or the fragile space of weak governance - presents counterinsurgency as a particularly salient treatment, with the emphasis on both military and civilian efforts. Aid as an explicitly liberal way of rule, an extension of Western foreign policy as opposed to a 'neutral' assistance, is at the heart of this rediscovery of development-led counterinsurgency. Within the development-security nexus, Duffield notes the periodic discovery of the problem of poverty: "from communism to terrorism, through its marginalizing effects and its ability to foster resentment and alienation among common folk, poverty has been monotonously rediscovered as a recruiting ground for the moving feast of strategic threats that constantly menaces the liberal order".⁹⁷

The integration of civil-military relations in the Manual is introduced through a Galula quotation: "essential though it is, the military action is secondary to the political one, its primary purpose being to afford the political power enough freedom to work safely with the population".⁹⁸ To work with the population freely, the physical pacification of space is

⁹⁵ Bell, Evans, 'From Terrorist to Insurgency' p.385; Markus Keinscherf, 'A Programme of Global Pacification: US Counterinsurgency Doctrine and the Biopolitics of Human (In)Security' in *Security Dialogue* Vol. 42 No. 6 (2011) pp.517-535

⁹⁶ Kienscherf, 'A Programme of Global Pacification' p.521

⁹⁷ Mark Duffield, 'The Liberal Way of Development and the Development-Security Impasse: Exploring the Global Life-Chance Divide' in *Security Dialogue* Vol. 41 No. 1 (2010) p.61

⁹⁸ US Army, FM 3-24 p.53

assured through the separation of the insurgents from their possible receptive audience, the counterinsurgent then transforming each space, gradually expanding outwards. Inspired by the oil-spot theory as posited by French General and Colonial administrator Lyautey, US COIN developed a clear-hold-build strategy, where starting from a secured area, this could gradually be expanded through the rendering of services and the provision of human security, as well as a steady flow of reliable intelligence.⁹⁹ The structure of clear-hold-build, is intended to disrupt the insurgents and isolate them from the populace, establish a host nation force capable of maintaining this stability, and consolidate this popular support of the government forces. A key facet of population control is specifically defined as the determination of who belongs, and their relational network, through the conducting of a census.¹⁰⁰ This permanent pacification entailed knowledge production on the population along with the gradual restoration of support in the host nation government through establishing municipal and economic structures. The population it was said, should be convinced that there is something to be secured: when feeling more invested in the secure and improved living conditions, the people will cooperate further and provide information to once and for all destroy the insurgency.¹⁰¹ The 2007 surge, overseen by Patreaus, followed this clear-hold-build structure: Baghdad was divided into nine sectors, and a joint security team of US troops and Iraqi forces were stationed to provide local level security. Strictly bordered by checkpoints and barriers, the population were issued with ID cards, and travel controlled. Interacting with the population went beyond traditional security, with the reparation of streets and buildings that had been damaged in the war.¹⁰² The distinction between military and police power is clearly blurred in counterinsurgency warfare, the martial face of targeted killing accompanying the regulation of public order. The spreading of the oil spot would be attained through the mutually reinforcing provision of human security with intelligence dominance, the reconstruction in pacification.

Traversing the Human Terrain

One of the most controversial programmes that was developed and implemented as part of the 21st century counterinsurgency, was the Human Terrain System (HTS), which ran from 2007 to 2015. This reflects what has been termed the 'cultural turn', a rebranding of the colonial legacy that knowing the natives can achieve victory. Facing defeat from what was believed to be an inferior enemy, can only be explained as a lack of understanding, and the notion that there are inherently different ways of war-waging - a Western and Eastern way of war. Advocating an 'anthropological approach to war', ties the notions of differing (and inferior) cultures to strategic culture, ultimately perpetuating the orientalised figure of the

⁹⁹ Marshall, 'Imperial Nostalgia, the Liberal Lie' p.243

¹⁰⁰ US Army, FM 3-24 p.161

¹⁰¹ US army, FM 3-24 p.161

¹⁰² Ucko, *The New Counterinsurgency Era* p.128

Other.¹⁰³ The Other way of war is defined against the West, as the 'cultural knowledge' presented is structured along the lines of the difference from the norms and values of Western culture. Designed to embed anthropologists (and other social scientists) in combat brigades in Iraq and Afghanistan, the rationale of the HTS combines rule with war in supplying military commanders with socio-political cultural awareness. Citing the retired Major General Robert Scales' 2005 argument for a 'culture-centric warfare' in the face of failure in Iraq, anthropologists Montgomery McFate and Andrea Jackson composed a pilot proposal as a 'solution' for the Department of Defense's 'cultural knowledge needs', an 'Office of Operational Cultural Knowledge'. This organisation of social scientists would conduct ethnographic field research in areas of operation, develop and conduct pre-deployment and advanced cultural training, provide sociocultural reports on request on areas of interest, act as advisers, as well as design and run "experimental sociocultural programs".¹⁰⁴ Counterinsurgency as the struggle for the population, was also the struggle to *know* the people. Cultural knowledge was lauded not only as a means to predict violent events, but this understanding would decrease both civilian and American casualties, through the fostering of positive relationships. The duties carried out by the HTS personnel went beyond consultation to include data collection, participation in psychological operation, and in at least one case the support of interrogation. The domestic propaganda role of HTS draws upon the tropes of the light-touch in imperial policing, this occupation seemingly more humane and benevolent, fronted by humanities and social sciences graduates.¹⁰⁵ The name places the human as the site of intervention, the terrain to be controlled and pacified.

Placing culture at the forefront of both society and war, places the knowledge produced on the Other within the category of military intelligence. Assessing the failures in Iraq and Afghanistan, culture was identified by many within the armed forces as the missing link - a lack of cultural understanding had stoked the insurgency, therefore knowledge correctly operationalised by the military could counter it. Culture was then considered as a 'dimension of warfare', to be developed in and through the military forces. The assumptions driving this will to know, shape the questions asked. While the Pentagon considered cultural insensitivity as a catalyst of the insurgencies, the US Army War College studies failed states in Africa, the Middle East, and Central Asia as incubating terrorist networks.¹⁰⁶ Cultural

¹⁰³ Patrick Port, 'Good Anthropology, Bad History: The Cultural Turn in Studying War' in *Parameters* Vol. 37 No. 2 (2007) pp.45-58; Porter, *Military Orientalism*: . The ethical implications caused many anthropologists to condemn the program, in terms of the data collection the use of the knowledge produced, and the potential harm to the people of Iraq and Afghanistan. See also, Roberto J. Gonzalez, *American Counterinsurgency: Human Science and the Human Terrain* (Cambridge: Prickly Paradigm Press, 2009). Gonzalez is a founding member of the 'Concerned Anthropologists'.

¹⁰⁴ Montgomery McFate, Andrea Jackson, 'An Organisational Solution for DOD's Cultural Knowledge Needs' in *Military Review* (July-August 2005); Bell, 'Hybrid Warfare' pp.228.229

¹⁰⁵ Robert J. Gonzalez, 'Beyond the Human Terrain System: A Brief Critical History (and a Look Ahead)' in *Contemporary Social Science* (April 2018)

¹⁰⁶ Porter, *Military Orientalism* p.9; Josef Teboho Ansorge, 'Spirits of War: A Field Manual' in *International Political Sociology* Vol. 4 (2010) pp.362-379

learning is not only focused on how the US can avoid the label of foreign invader and oppressor, but also why these cultures feed terrorism, and fail to provide governance. The drive for cultural-knowledge-accumulation was rendered in the strategic plan of the military: the 2006 QDR stressed the importance of 'human intelligence' and the development of "intensive cultural and language training, which over time will create a more culturally aware, linguistically capable force, better able to forge victory in the long war"; and the following review in 2010, the demand for linguistic, cultural, and regional knowledge was placed within a complex threat-scape likely to shape the 21st century as "rising demand for resources, rapid urbanization of littoral regions, the effects of climate change, the emergence of new strains of disease, and profound cultural and demographic tensions in several regions are just some of the trends whose complex interplay may spark or exacerbate future conflicts".¹⁰⁷ Cultural knowledge was trumpeted as necessary to understand the tensions producing dangers as well as to manage these tensions, preferably before conflict, and to guide counterinsurgency. However, with this emphasis on 'culture', the violence emanating from failed and rogue states is attributed solely to the internal ethno-sectarian divisions and conflicts, negating the role of external actors and interventionary powers (other than perhaps to recognise their poor handling of the cultural tensions). Indeed, Sewell argues that "the US military has recommitted itself to protecting the rights of foreign citizens of all nationalities and faiths".¹⁰⁸ The morality of a 'military humanism' is then assured through this culturally sensitive conduct, as Gregory argues in relation to the Iraq war, the new-found US sensitivity places all responsibility for subsequent violence upon the Iraqis. The US military under the Bush administration had purposefully stoked and institutionalised sectarian violence in the creation of the 'new Iraq', cutting deals with local militias.¹⁰⁹

The information produced by personnel of the HTS produced an automated counterinsurgency framework, an up-to-date bureaucratised map of socio-cultural knowledge. Human Terrain Teams comprised a group of 5 - 8 specialists, including some social scientists, embedded within a brigade to provide knowledge - the non-lethal actors of COIN. The activity of these teams includes the analysis of tribes and intra-tribe relations. Using collated census data and geographical mapping tools, the human terrain can be calculated. Compounded with the consideration of religion and ethnicity, the reading of cultural practices constitutes not only identity, but "a means for making the social reality of the 'other' legible, and legibility is always a necessary condition for governance: be it to exploit or to govern benevolently".¹¹⁰ The production of Mapping Human Terrain software compiled an "automated database and presentation tool that allows teams to gather, store, manipulate, and provide cultural data from hundreds of categories"; the categorisation of

¹⁰⁷ US Department of Defense, 'Quadrennial Defense Review Report' (6 February 2006) p.15; US Department of Defense, 'Quadrennial Defense Review Report' (February 2010) p.7

¹⁰⁸ Sewell, 'Radical Field Manual'.

¹⁰⁹ Gregory, 'Rush to the Intimate'.

¹¹⁰ Ansorge, 'Spirits of War' p.375

knowledge was focused upon "regionally specific data" which included "political leadership, kinship groups, economic systems and agricultural production": this knowledge was then systematised in a central database "accessible to other US governmental agencies" with the intention that this would "eventually be turned over to the new governments of Iraq and Afghanistan to enable them to more fully exercise sovereignty over their territory"¹¹¹. Thus, effective sovereignty is thought to demand a sophisticated, biopolitical map of the human terrain to be governed, managing what behaviour is culturally-different-but-safe, and that which signifies danger. Human Terrain Teams combined knowledge of social relationships and practices with a spatial reading of the human and geographical area to produce. While the HTS has ceased to operate, Gonzalez proposes that these logics remained in the embrace of 'big Data' by the Obama administration. A militarised anthropological knowledge has diffused across military and intelligence agencies, informed by a 'techno-scientific' counterinsurgency that collects data through biometric databases, phone records, and drones.¹¹² The move to a 'culture-centric warfare' implicated the population in their own insecurity, insurgency as a problem of the Global South (and on the whole, post-colonial spaces). The rationale imposed is one of a cultural 'lack' that enables the fostering of such violent expressions of alienation. The move from a computerised, 'anthropological' data collection to a technological reading of patterns, stems from this reading of culture as rendering calculable 'risk'

Race War to Culture War

As Porter argues "the embrace of culture grew out of a colonial legacy whose influence continues, but its new incarnations replace the language of 'race' with 'culture'".¹¹³ The danger within the interconnected, globalised world, was a problem of failed states and rogue regimes, who must be pacified and cured. The impetus to understand culture, is to understand and to rectify those components which give rise to insurgency, and therefore, the deficiencies therein that contribute to a lack of sovereign legitimacy. The understanding of culture renders the enemy, and the Human Terrain of operation (the population), as knowable, therefore enabling strategies of management. Foucault theorises race - as a constellation of signifiers of 'Otherness' - as enabling the caesura in life-promotion, those who are too-different, who cannot be incorporated, can be killed in the overall project of protecting life itself. The reliance on cultural difference, places the entire mass under suspicion, under the guise of 'improvement' and 'security'. The biopolitical formation of culture - as the organising principle that replaces race - then allows the accompanying thanatopolitical justification of killing. The explicitly medical and biological metaphors

¹¹¹ Quote in Gonzalez, 'American Counterinsurgency' p.4

¹¹² Oliver Belcher, a geographer, as quoted by Gonzalez: "it's algorithms, not anthropology, that are the real social science scandal in late-modern war", Robert J. Gonzalez, 'The Rise and Fall of the Human Terrain System' in *Counterpunch* (29 June 2015)

¹¹³ Porter, *Military Orientalism* p.7

employed in counterinsurgency theory are rife. The manual proposes a 'medical analogy' to describe the offensive, defensive, and stabilising operations that characterise successful counterinsurgency as stopping the bleeding, 'inpatient care-recovery', and 'outpatient care - movement to self-sufficiency'. Following the emergency response of first aid through direct intervention, the second stage encompasses the need to restore governance and essential services, and finally the weaning off of external care and the fostering of self-reliance through security and development.¹¹⁴ In this understanding, an infection or injury (transmitted through the insurgents) must be stabilised through external intervention - one in which the harmful components within must be isolated, a quarantine imposed, and those infectious elements destroyed. This again, refuses to acknowledge any complicity of external actors or forces, in violence. Liberal war clears the way for the reparative medical care of liberal rule. The social reconstruction is designed to attack the 'root causes' of the insurgency, and aided with cultural legibility, build an immunity to any further infection. The creation and distribution of knowledge encompasses the complexity of the social body as a dynamic network, a body that must be monitored, the weak points bolstered, and the infected areas cured. The insurgent is a force that does not belong, that must be uprooted. Kilcullen's work is awash with medical metaphor, as he envisions the war on terror within the "accidental guerrilla syndrome" encompassing a cyclical process of "infection, contagion, intervention, rejection".¹¹⁵ The rejection phase is a reaction to a mis-managed intervention, a reaction to a foreign substance. The 'accidental guerrilla' is a product of circumstance that have been opposed, not from any sense of political agency.¹¹⁶ Counterinsurgency is fundamentally a biopolitical intervention, enacting the sovereign exception of death alongside the management of the population, a policing logic of war to construct peace. Alongside the labour intensive, boots on the ground approach to the policing of this global periphery, I now turn to air power as the instrument of surgical intervention and expansive surveillance.

¹¹⁴ US Army, FM 3-24 p.152

¹¹⁵ David Kilcullen, *The Accidental Guerrilla: Fighting Small Wars in the Midst of a Big One* (Oxford: Oxford University Press, 2009) p.35

¹¹⁶ Bell, 'Hybrid Warfare' p.240

4.3. Aviation as pacification

There's a wonderful phrase: 'the fog of war.' What "the fog of war" means is: war is so complex it's beyond the ability of the human mind to comprehend all the variables. Our judgment, our understanding, are not adequate. And we kill people unnecessarily.

- McNamara, quoited in Erroll Morris (dir.), *The Fog of War* (2003)

The technological innovations of air power in war have been heralded as a humanitarian revelation: at once collapsing distances and enabling a humane precision in the surveilling of targets in collating information. The potentials in war from the air from the off have evoked pacific dreams of an order, a modernist ideal where technology breaks man from territorial boundaries, a tool of observation and surgical targeting. However, the paradoxes of aerial war have been present throughout the history of bombing, even in 'conventional war': while initially touted as relatively death-free warfare for both soldiers and civilians - after the attritional nightmare of the Great War - the incorporation of bombing campaigns into the devastating Total War of WWII demonstrates the blurring of boundaries between legitimate and illegitimate civilian death.

The Global War on Terror, the long war, the series of global contingency operations - however it is categorised - has largely been fought from the skies, and the ever-increasing remit is well documented, most starkly as unmanned aerial vehicles - otherwise known as drones - can conduct strikes as the pilots sit in another continent. The drone as the weapon of liberal war *par excellence* has been portrayed by its advocates as a humanitarian tool of war, able to observe and to discriminately pick out targets. The bureau of investigative journalism has kept a running total of the US drone operations and the resulting deaths since they began recording in 2004, with the minimum confirmed strikes at 14,040, total killed between 8,853 and 16,901: 910-2,200 of those killed were civilians and 283-454 were children.¹ The difficulties of retaining accountability, beyond the US supposed innate principles of humanity, are clear in the gulf of projected numbers. Investigating the drone as a weapon of 'humanitarian' force as these are deployed both in strikes as well as in everyday surveillance must be filtered through the colonial logics and hierarchies that structure thinking on 'war'.

Writing a history of aerial bombing, Thomas Hippler captures the aviation-inspired imaginaries of writers in the opening decades of the 20th century, from Victor Hugo to the Futurists, where the celestial craft was constructed as an emancipatory force of spirituality and technology, a combination of man with machine. However, these flights of fancy are placed alongside the geopolitical manoeuvrings of European colonial powers toward a global war, Hippler thus capturing the twin imaginaries of air power as liberation and elimination. Aviation within Europe was depicted as a means of revolutionising 'social life', as evidenced in the thinking of Achille Loria, a professor of economics and namesake of the

¹ At time of writing. See the 'Drone War Database' at the Bureau of Investigative Journalism <<https://www.thebureauinvestigates.com/projects/drone-war>>

Gramscian concept of Lorianism, which denotes a lack of intellectual responsibility. Loria depicted a truly human freedom. Not only would workers be freed from the repression of capital, but the influence of a higher altitude would reduce criminality: as Hippler argues “this spiritual and moral idea typical of liberal thought was directly linked with an economic argument, followed by a political one: as humanity would no longer be separated from itself by artificial borders, men could finally devote themselves to unimpeded global trade”.² The pacific qualities of aviation were held to exist in their transcendence of borders, these distinctions rendered obsolete through flight.

However, the unbounded nature of this technological potential was also regarded in fear, in the potential of a sudden onslaught from the skies. This destructive potential - considered alongside the relative capacity of European nations for technological development - gave new life to an old notion of ‘federative cosmopolitanism’. In order to deter the illegitimate violence of any ‘rogue regime’ raised the question of a policing power, an executive to determine right from wrong, a notion evoked by Roosevelt in his Nobel Lecture in 1910. Air power gave new life to the notion of a “liberal-pacifist cosmopolitanism” that would be upheld through an executive power the “enormous destructive power calls for a cosmopolitan framework; the possibility to threaten the lives of millions of people cannot be left to any ‘rogue state’ “.³ The legitimate use of air power is then conditioned by cosmopolitanism, i.e., by the forces of ‘humanity’. The supposed universality offered by air power included within it the caesura of responsibility: those incapable of partaking in the fruits must first be disciplined through a policing power to keep the peace. While construed as making possible the spread of economic prosperity and political liberty, the possibilities of destruction rendered necessary a defence of order. The potentials that were offered by air power for peace, were the same turned toward the ‘small war’ operations of ‘imperial policing’. Before considering the contemporary practices of US air power, it is imperative to examine the British aerial policing across the empire from the 1920s, conceived as enabling a ‘light touch’, and a source of inspiration for the US Air Force.

A lighter footprint: “Minimum Violence, Lasting Results, and Minimum Cost”

Airspace is a coved territory of internationally organising policing power. Investigations of air power in wartime - and specifically bombing - often turn toward the Second World War. The notion that air power is an ethical weapon of war has been grounded in the notion of deterrence, or in the forcing of fast conclusion that avoids the horrors of attrition.⁴ While

² Thomas Hippler, *Governing from the Skies; A Global History of Aerial Bombing*, trans. Fernbach (London: Verso 2017) pp. 24-29

³ Hippler, *Governing from the Skies*, pp. 35-36

⁴ Derek Gregory, ‘From a View to Kill: Drones and Late Modern War’ in *Theory, Culture and Society*, Vol. 28 (2011) p.205

debates on bombing under Just War criteria are structured around legal and ethical imperatives, focused upon efficacy and swift bringing aggression to a close. However, the US Air Force has placed a great deal of emphasis upon another genealogy, similarly focused upon air power as an application of ‘minimal force’ and maximum pacification which took off in the interwar period. A 2009 report published by the US Air University presents an “Airpower Proposal” to meet the requirements of a ‘responsible military drawdown’ of the American footprint, arguing that “airpower is uniquely situated to conduct counterinsurgency (COIN) operations to preserve the enormously expensive yet tenuous security situation in Iraq”.⁵ The report turned toward the British RAF colonial air policing of Mesopotamia in the 1920s to establish ‘historical precedent’ of airpower as a viable central force for pacification and maintaining security, with implications not only for Operation Iraqi Freedom but for future operations “throughout the world”. British imperial policing had been used as a more cost-effective, precise, and expansive alternative to land forces.

The practice of ‘imperial policing’ had piqued the interest of USAF research before: a 1986 Air Power Research Institute report, *The Air Force Role in Low-Intensity Conflict*, specifically posed the question of US influence in the resource rich and geo-strategically significant spaces in the Third World in the following 20 years, pinpointing air power as crucial in facing the insurgencies and unrest stoked by economic depression and political instability. The lessons drawn from RAF imperial policing were that “air power can be shaped in creative ways to achieve political results”, noting that “a very sophisticated combination of superb intelligence, communications, and psychological warfare coupled with a judicious application of firepower was necessary to achieve the desired results: pacification of a troubled colonial area with minimum violence, lasting results, and minimum cost”.⁶ Further, a report in 1994 as a “model for the application of air power in low-intensity conflict”, and a 2006 Department of Defense Report on the subject of Iraqi ‘tribes’ referred to the British suppression of the 1920 rebellion, and the continued dominance in the area as enabled through the minimal resources consumed by air power.⁷ Just as the US military turned to the notebooks of colonial powers in studying counterinsurgency, the skies in these ‘small wars’ also provided historical insight into controlling ‘unruly’ populations. Noting this handful of reports is not to assess the extent of knowledge of British colonial practice in the US defence structure, but rather to explore how the knowledges of imperial policing - and pacification - are perceived as ensuring security in ‘ungoverned spaces’ in a virtuous manner, not only as cost effective but a morally effective system of governance.

The ‘lighter footprint’ that could be trodden through airpower, it was argued, could

⁵ Erik Rundquist, ‘Desert Talons: Historical Perspectives and Implications of Air Policing in the Middle East’ (April 2009) p.3

⁶ David Dean, *The Air Force Role in Low-Intensity Conflict* (Alabama: Maxwell Airbase, 1986) p.25

⁷ See Neocleous, *War Power/Police Power*, p.141 Referencing: Capt. David Willard Parsons, USAF, ‘British Air Control: A Model for the Application of Air Power in Low-Intensity Conflict?’ in *Airpower Journal*, (Summer 1994); Lin Todd et al., ‘Iraq Tribal Study: Iraq Al-Anbar Governorate’ (US Department of Defense, 2006), sect. 5–23.

strengthen the legitimacy of host nation forces and governments (as well as avoiding intervention exhaustion at home), while also providing the flexibility of the ‘hybrid’ nature of 21st century warfare. It is between the ‘World’-s that air power came into its own - as the 2009 report concludes with a quote from the autobiography of the highly decorated Sir John Slessor, who became Marshal of the Royal Air Force in 1950: “I think the method of air control, as devised and practiced by the RAF in many wild part of the world during the First World War, may be susceptible of adaptation and application in very different conditions to preserve the peace of the world”.⁸ Air power, that had been transformed by the technological developments of the Great War, was turned toward the securing of protectorates, mandates, and colonies from potential uprisings and anti-colonial revolt: air power thus evolved through the relation of the ‘civilised world’ to the global periphery.⁹ Aviation developed within this racist dichotomy, “it brought peace to white people and bombs to the colonized”: the all-encompassing distinction of the civilised and the barbarous structured this martial policing as a pacific and pacifying force, which failed to afford any European notions of combatant/non in the colonial space.¹⁰ It is imperative to interrogate the notions of ‘minimum force’ in precision targeting that continue to structure the use of air power as pacification, as founded within the colonial relationship of ‘legitimate force’/barbarous chaos.

Imperial Policing: Pacifying the Borderlands

The brutal tactics of air policing - which combined bombing with machine gunning - were accepted as a necessity in ‘uncivilised war’ waged against the Kurds, Somalis, and Sudanese, but could not be considered in the more civilised - read, white - terrains such as in the Irish war of independence.¹¹ The ‘lawlessness’ of the uncivilised thus legitimised aerial operations and, if necessary, bombardment; the fault-lines of civilisation dictated the legitimate means of imperial defence. The excesses of civilising violence were served by aerial operations, where peace could only be secured through the furthering of Western rule. The use of air power in the inter-war period was dominated by aerial policing, which as colonial war generally, has been subsumed under the label of ‘small wars’, and thus considered as marginal interludes. However, beyond the capitulation of the enemy, the strategic rationale of air policing as practiced by the European imperial powers, was of imposing and maintaining order, the liberal democratic powers argued that the targeted and ‘humane’ use of air power could carry out the just will of government.¹²

⁸ Rundquist, ‘Desert Talons’ p.60

⁹ See David Omissi, *Air Power and Colonial Control: The Royal Air Force 1919-1939* (Manchester: Manchester University Press, 1990). Omissi traces the ‘origins of air policing’, noting the use of balloons and the development of the aircraft. Before the outbreak of the First World War in 1914, ...

¹⁰ Hippler, *Governing from the Skies*, pp.62-63

¹¹ David Killingray, “A Swift Agent of Government”: Air Power in British Colonial Africa, 1916-1939’ in *The Journal of African History*, Vol. 25 No. 4 (1984) p.432

¹² Neocleous, *War Power/Police Power*, p.143

The royal air force was established in 1918, from the royal flying corps that had operated before and during the first world war, becoming the first dedicated aerial branch of the armed forces in the world. While aerial operations in the war had largely been confined to Europe, aeroplanes had been used to control the colonies throughout the war, aiding in the suppression of rebellion, insurgency, and the policing of the Indian Frontier.¹³ Churchill was a central figure in the promotion of imperial policing, and served in roles across the relevant departments of government - holding significant sway - as the First Lord of the Admiralty then appointed as the Minister for Munitions and later the Secretary of State for War, for Air, and finally for the Colonies. Faced with the possibility of a stripping back of the air force in light of a decline in military spending, Churchill lobbied for an independent air branch to pacify the colonies, a major function being 'imperial policing'. The tumult and vulnerability of the post-war situation stimulated a 'crisis of empire', as demobilisation was paired with the colonial expansion in meeting the peace agreement at Versailles, which stimulated and aggravated independence movements, "this was particularly true of the newly acquired mandates in the Middle East, the colonies in North Africa, and in those areas where colonial rule did not yet obtain, regions often described as 'uncivilized' or 'unpacified'".¹⁴ The post-war structure had to maintain both imperial commitments and homeland defence with an army reduced to pre-1914 size, garrisons posted across the colonies and protectorates, as well as reduced forces for the defences for the Royal Navy resources. While new mandates in the Middle East were briefly patrolled by troops, their protection was ultimately handed over to the RAF.¹⁵ The war had accelerated the development of aviation technology, particularly for military purposes, and introduced aircrafts into North and East Africa, leading to the practice of what would become known as 'air policing', the quelling of unrest and bolstering of colonial authority.¹⁶

The campaign in Somaliland in 1919-1920, against the 'insurgent' Mohammed bin Abdulla Hasan and his Dervish following, provided an opportunity to showcase the possibilities of the benefits of aerial policing. Hasan had been fighting colonial rule for twenty years, and the British had launched four expeditions in response to his agitations in the early 20th century. The area had proved too difficult to police through conventional measures, and Hasan held powerful influence in the region, commanding some 6,000

¹³ Omissi, *Air Power and Colonial Control*, p.6

¹⁴ Killingray, 'A Swift Agent of Government' p.431; see also T. R. Moreman, "Small Wars" and "Imperial Policing": The British Army and the Theory and Practice of Colonial Warfare in the British Empire, 1919 - 1930' in *Journal of Strategic Studies* Vol. 19 No. 4 (2008) pp.105-131

¹⁵ Moreman, "Small Wars" and "Imperial Policing", p.106

¹⁶ Killingray, 'A Swift Agent of Government' p.430, "The idea of substitution originated in the Great War. In June 1918 Sir Frederick Sykes, the Chief of Air Staff, proposed to the War Cabinet a scheme for an Imperial Air Force which included bases in the Middle East and a policing role there and in sub-Saharan Africa. A number of army and air officers had already suggested that aircraft might be used in West Africa to release black troops for active service overseas, and also to counter the French build-up of aircraft in their colonies. In early 1919 an R.A.F. officer suggested that aircraft be used to deal with internal unrest in Nigeria, an idea strongly endorsed by the Staff Officer of the West African Frontier Force in his paper on the reorganization of the Force." p.433

fighters at the peak of his influence.¹⁷ Proposed by Air Marshal Sir Hugh Trenchard - Chief of the Air Staff - as a lower cost alternative to the preceding decades of punitive ground operations and failed institutional ventures, the 'Z' unit of the RAF bombarded the insurgents, forcing them to flee.¹⁸ With this apparent vindication, Trenchard could argue for 'air substitution' as a relatively cheap solution to the financial issue of pacification in debates on the organisation of the armed services. Along with Churchill, Trenchard called for the extension of the Air Force to Mesopotamia, in countering the War Office and Admiralty will to dissolve the RAF. The institutional turn to air-powered-policing was then focused upon Iraq, the independence of the RAF as a military branch was bound in the inter-war years to pacification.

Quelling the 1920 Iraq rebellion had required almost 29,000 British and Indian troops. In March of 1921, Churchill organised the Cairo Conference to consider policy options to control and maintain security in the region. The need to cut costs while reducing the number of deployments pointed toward the extension of the Air Force: Iraq then provided a training ground for the RAF as a pacification force, subduing unrest or rebellion from a network of bases, with bombardments targeting villages or tribes.¹⁹ Air policing also offered a novel means of knowledge production and intelligence gathering. British cultural constructions of the mysterious, Oriental Other as informing imperial policing have been explored by the historian Priya Satia. The Arabist-intelligence agents who had begun to explore the interior of the Ottoman empire at the turn of the century, considered themselves as pioneers venturing into the unknown, through a lens of colonial nostalgia combined with orientalised myths of a biblical homeland. Arabists were fervent proponents of air policing: this offered a means to swiftly traverse what were hostile terrains to these intruders, enabling communication as well as the ability to pinpoint and to 'know' nomadic tribes - ways of living that had previously subverted the enforcement of any state's rule could be placed under scrutiny.²⁰ It was argued the use of aerial operations would be particularly suited to the topographical make-up of Mesopotamia; the supposed 'flat-ness' offered the possibility of a wide-reach with few bases, which would facilitate the consolidation of British rule. The urban, cosmopolitan cities of Europe were then unsuited, but here such violence could seemingly be continued and controlled.

This technology was touted as granting the invader a means of conquering what had previously been beyond their reach, enabling a "liberty of movement" where imperial rule would be raised, quite literally, above the "stubborn races", an aerial regime of surveillance that could process and manage the alien, nomadic existences of the far-off desert. As a

¹⁷ Omissi, *Air Power and Colonial Control*, pp.13-14

¹⁸ Hippler, *Governing from the Skies*, p.58; Michael Longoria, 'A Historical View of Air Policing Doctrine: Lessons from the British Experience Between the Wars, 1919-1939' (May 1992) <<https://media.defense.gov/2017/Dec/29/2001862107/-1/>> in particular see chapter 3, pp. 19-23

¹⁹ Priya Satia, 'The Defense of Inhumanity: Air Control and the British Idea of Arabia' in *The American Historical Review*, Vol. 111 No. 1 (Feb 2006) p.16

²⁰ Satia, 'The Defense of Inhumanity'

cabinet paper on air power in Mesopotamia argued, “the ‘long arm’ of the new weapon renders it ubiquitous [... and] makes it practicable to keep a whole country under more or less constant surveillance”.²¹ The ease of movement and of detection instituted a pervasive insight and overwhelming firepower, as the safeguards and rules of ‘just conduct’ that were in place when dealing with a ‘civilian population’ were categorically rejected in the colonial context. ‘Pacification’ came at a great cost to Iraqi lives, and across the colonial spaces in which it was practiced. While this was not a ‘war’ - but a policing operation - the population under surveillance were held under a constant suspicion. The ‘humanity’ said to characterise aerial operations lay in the arguments of proportion and distinction, but how was a combatant distinguished?

The ‘Air Control’ doctrine as theorised by Trenchard, positively compared the relative efficiency of air operations with punitive ground expeditions. The 2009 US report also notes the opinion of Air Marshall Slessor that these were indeed more ‘humane’, as the damage to the civilian population and their property would be less severe while the disruption of the everyday would dispel the energy to rebel in the first place and ensure submission to governmental rule. Assessing colonial policing as precedent for the ‘airpower proposal’, the author concludes that “the RAF weaved the ideas of the inverted blockade, application of minimum force, precision targeting, and force protection to fabricate an air control theory that was employed in the Iraq Mandate”²². Air control was thus inextricably tied to the mission of maintaining order, through targeting ways of life not amenable to British rule by a constant disruption. The supposed humanity of air power lay in its efficiency, the enforcement of law and order with the least ‘collateral damage’ to property. The notion that air power is humane through precision and ‘minimum force’, is used to justify the constant surveillance and ‘targeted strikes’ of drone warfare, in an echo of the British counterinsurgency colonial aporia of the ‘light touch’. This calculated violence, the disruption of routine and everyday safety, was used to break the will of resistance and enforce order.

What was referred to as the North-West of India - modern day Pakistan - was composed of various mountain tribes and had proved difficult to pacify: unrest in the region aggravated by Britain’s two invasions of Afghanistan in the 19th century, the tribesman periodically stole cattle and kidnapped British citizens for ransom. The Third Afghan War in 1919 sapped the resources of the British and Indian forces, and in the case of any lawless activity, the policing practiced in Iraq was turned to the tribes. In a secret directive issued in 1924 entitled ‘Employment of Aircraft on the North-West Frontier of India’, Trenchard depicts an orientalised image of the unruly, monstrous, irrational Other: “The problem of controlling the tribal territory [...] has always needed special treatment by reason of the psychology, social organization, and mode of life of the tribesman and the nature of the country they inhabit”.²³ Their lawlessness then was reflected not only in their society but in

²¹ Satia, ‘The Defense of Inhumanity’, p.31

²² Rundquist, ‘Desert Talons’, p.12

²³ Directive quoted in Graham Chandler, ‘The Bombing of Warzistan’ in *Air and Space Magazine* (July 2011)

their very being and in their geographical location. The need for this 'special treatment' was rooted in disparities of a code of civilisation: "In warfare against savage tribes who do not conform to codes of civilized warfare, aerial bombardment is not necessarily limited in its methods or objectives by rules agreed upon in international law".²⁴ Indiscriminate bombing was not only justified but necessary. However, Cossley notes the 'codes of practice' that were attached to air policing: bilingual leaflets were dropped over the village of an offending party, warning of a bombing and recommending the evacuation of women and children. On the assigned date, the directive called for an immediate start to the campaign as to assure the maximum damage to men and animals present, with machine gun fire responding to any movement. The predicted psychological effect of this constant presence depicted a terrorised enemy, who would be denied any means of subsistence, unable to practice the necessities of daily life: "The enemy will as the result of such measures feel insecure at all times: men must hide in caves [...] cattle if not driven into caves must be grazed in small bunches at great labour [...] tillage of fields must cease".²⁵ Once the 'hostile' actors had conceded, leaflets would announce by governmental order that the punishment had been fulfilled, and compliance assured. This is perceived as the use of minimum force, as a 'humane' alternative to ground occupation; however, killing animals, preventing their grazing, and denying the maintenance of crops, the targeted village would be unable to survive outside of the imposed social order. Aside from committing raids, rebellious villages could also be targeted for failing to pay taxes: refusal to pay became a common form of resistance, air policing then legitimate.²⁶ Resistance as belligerence, (indiscriminate) bombing for order, under the watchful eye of a constant surveillance power, was to induce pacific, 'good conduct', by order of the government. Air power developed then as a force of projection in waning empire, a force between policing and war. I turn now to Vietnam, a war initially of Indochinese independence from French colonial rule, where the US involvement against the communist government flitted between more 'conventional' overwhelming force and the 'unconventional' counterinsurgency tactics as explored above. The role of the skies in intelligence gathering and targeted killings also tells a different story than the focus on 'traditional' warfare.

Vietnam: Bringing the Thunder

Addressing the role of air power in Vietnam in 1965, the Chief of Staff of the US Air Force, General McConnel, referred to President Johnson's list of US objectives. These were decidedly not military it was said, "because they do not call for destruction of the enemy and his unconditional surrender but, rather, for peaceful and mutually acceptable

<<https://www.airspacemag.com/military-aviation/the-bombing-of-waziristan-162104725/>>

²⁴ 1924 Directive to Pilots quoted in Deborah Dixon, *Feminist Geopolitics: Material States*, (London: Routledge, 2015) p.102

²⁵ Graham Chandler, 'The Bombing of Warzistan' in *Air and Space Magazine* (July 2011)

<<https://www.airspacemag.com/military-aviation/the-bombing-of-waziristan-162104725/>>

²⁶ Neocleous, *War Power/Police Power*, p.147

settlement through unconditional negotiations".²⁷ It was only due to "persistent military aggression" McConnel argued, that actions in kind had become necessary. The aims of explicitly 'military' campaigns are then reduced to a shallow reading of Clausewitz, and further, as is the liberal way, any military action is carried out with a forced hand. To meet the demands of this situation, the air force is said to have combined the more 'traditional' roles with two new operations "truly unique in the annals of aerial warfare": "strategic persuasion" and airpower as force in guerrilla warfare. This history of air power is then bound purely to the experience of the Second World War, completely excluding the prolific inter-war imperial air force as an ordering power, a surveillance technique, and a pacification force. Within conventional telling's of the Vietnam war as a 'limited war', Gibson notes that the 'air war' is often paradoxically regarded as the most restrained front; however, the *lowest* estimates of the air munitions dropped over Southeast Asia by the US between 1965 and 1973 is a staggering eight million tonnes.²⁸ The supposed limits are clearly not in reference to the firepower.

The fragility of the legitimate 'sovereignty' of the South Vietnamese government formed a key facet of the air power programme. Considering the US right of intervention in Vietnam, just war scholar Michael Walzer refers to the two false premises of the construction of an external support in a 'civil war': that the US were providing assistance in order to aid a 'legitimate' government, and that their actions were a counter-revolutionary 'response' to the insurgents. Engagement in a counter-intervention is not focused upon the destruction of the enemy, but upon the restoration of sovereignty; as the US were propping up the Saigon government, Walzer claims the US sought "for a level of conflict at which our technological superiority could be brought to bear" which resulted in an American war "in someone else's country".²⁹ The fact of the intent of 'restoring' Vietnamese sovereignty - as weak and dependent upon the power of US support as it was - can shed light upon the privileged position of aerial operations: as a 'neo-colonial' project, the US were not attempting occupation, a lasting territorial presence, therefore more inclined toward air power. Indeed, bombing was conceived as a way of resolving the contradictions of the Saigon government's sovereignty deficit: by providing a constant presence, the will of the Vietcong would be quashed and the public support of the South Vietnamese strengthened.³⁰ The Vietnamese sovereignty dilemma - where the countryside support of the Vietcong was painted as a violent insurrection against a newly established government propped up by external support - combined with the maintenance of domestic support again posed air power as a relatively low cost fix, a panacea to build a sovereign power and dispel resistance without loss of (American) life and credibility, but this overwhelming

²⁷ General John P. McConnell, 'The Role of Air Power in Viet-Nam', Address by McConnell before the Dallas Council on World Affairs, Dallas Texas (16 September 1965)

<http://www.au.af.mil/au/awc/awcgate/vietnam/mcconn1.htm>

²⁸ Gibson, *The Perfect War*, p.319 **double check do I already reference this in the COIN chapter***

²⁹ Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (Philadelphia: Basic Books, 2015) pp.96-101

³⁰ Hippler, *Governing from the Skies*, pp.181-182 Gibson, *The Perfect War*, p.322-323

firepower was deployed in a war that would ultimately prove a chimera.

The bombing campaigns and chemical warfare unleashed in Vietnam has been the subject of much scholarship and seared into the popular memory. An infamous quote from the Commander of the 1st Infantry Division General William DePuy depicted a strategy of overwhelming force: “the solution in Vietnam is more bombs, more shells, more napalm [...] till the other side cracks and gives up”.³¹ The initial strategic bombing campaign of the war was President Johnson’s Operation Rolling Thunder, as a series of air strikes in North Vietnam between 1965 and 1968. These were conceived as a means of cutting off all flows from the North to the South, thus depriving the insurgency of communication, fighters, and supplies. The modernisation theorist Walt Rostow was one of the most dogged advocates of strategic bombing in the civilian advisory staff to Johnson. In explaining this enthusiasm for bombing, historian of US foreign policy David Milne looks to Rostow’s theory of economic development, and particularly his vehemence toward communism, which he had described as the “scavengers of the modernization process”, best understood as a disease.³² The integrity of the American way of development was dependent upon the eradication of this disease, bombing then as inoculation.

The strategic logic that underpinned Rolling Thunder was not an overwhelming show of strength but rather as a means of communication, to the South and North Vietnamese as well as to would-be future communist insurgents. Initially framed under the notion of ‘retaliation’, where strikes would follow a Vietcong action in the South, the report ‘A Policy on Sustained Reprisal’ argued that the audience was actually the South Vietnamese: “the immediate and critical targets are in the South - in the minds of the South Vietnamese and in the minds of the Vietcong Cadres”.³³ The need for the US to show up for its allies against communism, bringing its superior military power at crucial moments, was justified within a larger trajectory of guerrilla warfare: the use of air power “demonstrates U.S. willingness to employ this new norm in counter-insurgency -- will set a higher price for the future upon all adventures of guerrilla warfare, and it should therefore somewhat increase our ability to deter such adventures”.³⁴ Bombing could communicate support, and thus provide a morale boost for the South Vietnamese and strengthen the legitimacy of the government - to deter future national liberation campaigns as the disparity in force would present the futility of communist revolution. Rolling Thunder was also a strategy of coercion, a communication to the leaders in Hanoi: “in air war the very same bombs can be dropped for different reasons, but toward the same strategic ends”.³⁵ As fitting with the theory of modernization, Rostow

³¹ Quoted in Neil Sheehan, *A Bright Shining Lie: John Paul Vann and America in Vietnam* (New York: Random House, 1988) p.501

³² David Milne, “Our Equivalent of Guerrilla”: Walt Rostov and the Bombing of North Vietnam, 1961-1968’ in *The Journal of Military History* Vol. 71 No. 1 (January 2007) pp.169-203, quote on p.202

³³ Central Intelligence Agency, ‘A policy of Sustained Reprisal’

<<https://www.cia.gov/library/readingroom/docs/CIA-RDP80R01580R001603430019-7.pdf>>. This report found that “in all sectors of Vietnamese opinion there is a strong belief that the United States could do more if it would, and that they are suspicious of our failure to use more of our obviously enormous power”.

³⁴ CIA, ‘A Policy of Sustained Reprisal’

³⁵ Gibson, *The Perfect War* p.323

argued that the targeting of industrial marks, central to the economy, would coerce the North Vietnamese into cutting off the insurgency: mistakenly attributing to Ho Chi Minh a strategic rationale of economic growth, that would trump any and all ideological arguments failing to account for the role of self-determination and the goal of unifying North and South.³⁶ The notion that finding a ‘critical node’ would force the enemy into submission and into peace-talks, underpinned the calculations of the planning committee.³⁷

The bombing offensive that was carried out by the US and UK forces in WWII remained the blueprint for the US air force in the 1960s. Against the Axis, while the RAF had operated at night - carrying out area bombing of towns and cities - the US Air Force perpetuated a notion of ‘precision’ in their daylight operations, bombing military and industrial targets; however, the actual distinction on the ground was mainly a rhetorical one, as “precision bombing was often terribly *imprecise*, and the Americans ‘judged themselves by their motives rather than their results’”.³⁸ The focus upon the ‘communication’ potential of bombing in Vietnam, translated into a calculated strategy of where to bomb and what political message this would send. The Air Force had compiled a global database of potential targets - ‘the Bombing Encyclopaedia’ - and the bureaucratic, hierarchical system of authorising strikes saw the Air Force and Navy submit a list to the Commander-in-Chief of the Pacific Command; a revised list would then be forward to the Joint Chiefs of Staff to be again edited before sent to the Pentagon who would assess the proportionality of each potential target. President Johnson would then review the calculations, make a decision that would then be sent to the National Security Council, and back to the Joint Chiefs of Staff for execution.³⁹ The pacification program that had been fore fronted by Kennedy, the waging of the ‘other war’, had faced fierce opposition from the head of the Military Assistance Command of Vietnam, General Westmoreland. He also lamented the tactical bombing results, arguing that these allowed insurgents to get away (even though the targeting of individuals was not part of the ‘communication’ strategy). Before assuming control of the Vietnam command, Westmoreland had studied the British counterinsurgency campaign in Malaya, but concluded that the similarities were too few to merit a similar strategy.

The implementation of the army’s limited-war doctrine relied upon what were viewed as relative strengths against the insurgency: firepower and mobility afforded through helicopters. Waging a war of attrition, against an enemy of such lesser means, it was argued

³⁶ Milne, ‘Our Equivalent of Guerrilla Warfare’ pp.200-201. See also Robert Pape, *Air Power and Coercion in War*, (New York: Cornell University Press, 1996). Pape details the aims, strategies, execution, and ultimately the failure of ‘rolling thunder’ pp.176-195

³⁷ See, Andrew Cockburn, *Kill Chain: Drones and the Rise of High-Tech Assassins* (London: Verso, 2015) p.20. It is important to note, the aerial operations in the South that took place under Operation Ranch hand between 1962 and 1971 which deployed ‘unarmed’ aircraft. These were tasked with the destruction of the forest canopy - that provided refuge to the insurgents - by the spraying of herbicide (including the infamous Agent Orange); See David Zierler, *The Invention of Ecocide: Agent Orange, Vietnam, and the Scientists who Changed the way we Think about the Environment* (Athens: The University of Georgia Press, 2011)

³⁸ Derek Gregory, ‘Lines of Descent’ in *OpenDemocracy* (November 2011)

<<https://www.opendemocracy.net/derek-gregory/lines-of-descent>>

³⁹ Gregory, ‘Lines of Descent’

the NLF would be forced into submission through the bombardment of superior and overwhelming firepower.⁴⁰ By tracking insurgent cells and eliminating the enemy on a large-scale, cutting the survivors off from the civilian population, the insurgency would be efficiently neutralised. In the 'search and destroy' missions that were preferred by Westmoreland, US soldiers would be dropped from a helicopter to fight over contested ground, to chase the insurgents, and then be airlifted out. The helicopter was a manifestation of the US military's faith in "mobility", 'aggressiveness' and 'impatience', where the war was fought at a distance and at a pace: this focus upon directly battling the insurgents was accompanied by "the biopolitical massaging of statistics, most concerned with body counts and kill rates".⁴¹ This tactic, which often left the US fighting in unfamiliar terrain against an unconventional enemy who could define the battlespace, was based upon the military doctrines of mechanised warfare. The Secretary of Defense, Robert S. McNamara, sought to change the strategic logic of the American way of war, the figurehead of the 'cybernetic revolution' in the Pentagon.

Technowar: Clearing the Fog of War

Secretary of Defense through the early stages of the war - from 1961 to 1968 - McNamara had served in WWII in the Pacific theatre as a military analyst, calculating the devastating firebombing of Japanese cities. Managing the uncertainties of the 'fog of war' - the title of the Morris documentary on the life of McNamara - the Secretary sought to introduce methods from the corporate world, relying on statistical data to construe the reality of the field of battle. The rise of computer technology was integrated into military planning, this technocratic worldview of war-management privileged the production of military knowledge, exercised across air power and pacification. Vietnam, and the infectious insurgency, were then rendered as a system which simply had to be made legible. The abstraction that occurred through a reliance on data and numbers, was unable to recognise the uncertainty of the visceral conduct of war. In his history of drone war, Ian Shaw argues, "rather than illuminating the world with the bright light of statistical clarity, cybernetic warfare blinded its practitioners. Eyes were wide shut".⁴² Vietnam was the first 'technowar': a war that was fought through a logic of 'managerial science' structured through statistical datasets and mechanised systems. War was viewed through the prism of technology and ultimately rationalism, where success could be measured quantitatively, and the opposing forces were composed of 'technobeaurocratic apparatus' where the superior

⁴⁰ James Arnold, *Jungle of Snakes: A Century of Counterinsurgency Warfare from the Philippines to Iraq* (New York: Bloomsbury, 2009) p.218 Westmoreland had commanded an artillery battalion during the North African Campaign, later transferring to the airborne uni - reaching the commander of the elite 101st airborne division. He also introduced counterinsurgency to West Point.

⁴¹ Peter Adey, 'Vertical Security in the Megacity: Legibility, Mobility and Aerial Politics' in *Theory, Culture, and Society* Vol. 27 No. 5, p.60; Hippler, *Governing from the Skies*, p.177

⁴² Ian Shaw, *Predator Empire: Drone Warfare and Full Spectrum Dominance* (Minneapolis: University of Minnesota Press, 2016) pp.77-79

system would win the day.⁴³ The use of sophisticated technology in both the skies and on the ground constructed Vietnam as a battlefield, a population, and a terrain to be known and from there, to be ordered. Three technologies emerged from the Vietnam war which have converged in the contemporary dronification of US international security, in the attempt to *know* the unknown spaces of the ‘ungoverned’: the use of reconnaissance drones, visual surveillance, and the electronic battlefield. These transformed the intelligence-gathering of the air war that was so prized in the waging of a technowar.

The use of reconnaissance drones had emerged in the Cold War as a surveillance tool that could be used across sovereign borders of communist enemies, including Cuba and China. The low-flying aircrafts, called ‘Lightning Bugs’, could be flown in the diverse weather conditions of Southeast Asia and could surveil potential insurgent strongholds in North Vietnam, and over 3,500 sorties were conducted in Vietnam between 1964 and 1975.⁴⁴ Through the introduction of satellite technology, a rapid feed could be transmitted straight to Washington: while unarmed, the use of ‘lightning bugs’ was able to rapidly compress the ‘kill chain’.⁴⁵ The second innovation, visual surveillance, was introduced by the Air Force in the use of ‘Bird Dogs’. These aircrafts could fly at slower speeds and the pilots were trained to seek out physical signals of Vietcong presence, such as tracks or encampments. However, as the pilots were expected to become attuned to the landscape which they were surveilling, a practice akin to contemporary ‘pattern of life’ analysis emerged. “An odd sort of intimacy - at once detached and intrusive”, meant that the pilots believed they could ascertain information from the number of villagers in a rice field or the movements of farmers on the activities of the Vietcong, a knowledge which is vulnerable to bias and escalation.⁴⁶ Finally, the introduction of a system of sensors, both seismic and acoustic, on the Ho Chi Min trail constituted the ‘electronic battlefield’. The Ho Chi Min trail was identified as a ‘critical node’ by the war-planners, as a route that ran through the jungle of south-eastern Laos, supplying the Vietcong with supplies and recruits. In what became known as ‘Igloo White’, McNamara ordered the air force to distribute thousands of sensors across the jungle terrain, with aircraft circling day and night in order to relay the radio signals, superior technology imagined as a hammer against the flea of native insurgent knowledge. In a process that Cockburn describes as “wiring the jungle”, any traffic that was detected could then be tracked, targeted, and destroyed.⁴⁷ A bank of screens would then illuminate a line of light, as the dispersed sensors were activated through the night by convoys. Mediated by screens, Gibson argued the electronic battlefield was the “technological apex”, where the corporeal reality of the insurgents became simply ‘representation’, even termed a “target signature”: this trace of light would disappear following the sorties.⁴⁸ Information was the currency of battle against an unconventional

⁴³ Gibson, *The Perfect War*

⁴⁴ Shaw, *Predator Empire*, pp.102-103

⁴⁵ Gregory, ‘The American Way of Bombing?’ in *OpenDemocracy* (October 2011)

⁴⁶ Gregory, ‘Lines of Descent’

⁴⁷ Cockburn, *Kill Chain*, pp.17-31

⁴⁸ Gibson, *The Perfect War*, p.396-398

enemy, this systematised intelligence rendered universal the strategies of 'knowing' the enemy to be destroyed. Deviations from patterns could signify danger - as a light on a screen - thus an enemy combatant. The presumption of a neutral technological battlefield belies the structuring of information, how questions are posed, what is rendered problematic, the matrix of information that can blink a light on a screen.

Domestic policy informed the resolution of a large-scale bombing campaign under Nixon. The election campaigns of 1972 had forced candidates to grapple with the increasingly unpopular quagmire. The 'Linebacker' and 'Linebacker II' campaigns were aimed to compel the North Vietnamese to cease their conventional advance across the 17th parallel into the South, to give the South Vietnamese government space to retain their legitimacy, and to induce a cease-fire agreement allowing the US to withdraw.⁴⁹ The Nixon Administration also oversaw the introduction of the 'Revolution in Military Affairs'. Buoyed by the introduction of the 'electronic battlefield', a belief in technological dominance as a revolutionary shift in conventional warfare was furthered by the elevation of Andrew Marshall into the Pentagon, where he remained until the Obama administration, a constant figure of innovation and iconoclasm. The project, popularised by Marshall and like-minded individuals in the Pentagon, saw technology as a force-multiplier and emphasised the importance of developing 'precision guidance' and smart weapons, armies amassing against the representations on a computer screen. As a response to the Soviet 'military technical revolution', the revolution in military affairs was an extension of McNamara's technocratic war management, combining air power with surveillance and precision.⁵⁰ The new doctrine of strategic bombing that emerged following the Vietnam War, placed air power as the central component of the US force structure, in that air power alone - without a ground presence - could assure victory. This level of precision was viewed as revolutionary in air war, as Air Force Brigadier Buster Glossen - who planned the air campaign for Operation Desert Storm in Iraq - argued that the strategic concept of aerial operations were completely changed, as while originally conceived to unsettle the base of the enemy, "nobody had ever looked at actually destroying the division itself and halting its manoeuvre in short order".⁵¹ The Gulf War, which saw the speedy destruction of the Iraqi Army, the Fourth largest in the world - confirmed the premises of this strategic logic to the US armed forces and political counterparts.

Drones

The W. Bush Administration introduced drones to the War on Terror, but the program really took flight (pardon the pun) under Obama. During the Bush presidency, a total of 57 strikes were undertaken, whereas the Bureau of Investigative Journalism have reported that

⁴⁹ Hippler, *Governing from the Skies*, p. 175

⁵⁰ Shaw, *Predator Empire* pp.91-95 and Cockburn, *Kill Chain*, p.36

⁵¹ Lewis, *The American Culture of War*, pp.290-291

Obama authorised 563 strikes in Pakistan, Somalia, and Yemen.⁵² While the US military largely oversaw drone operations in Afghanistan - a state in which the US were formally at war - the CIA conducted 'secret' drone operations in the Federally Administered Tribal Areas of Pakistan, and beyond. Sweeping into office with the mantra of 'change', Obama repeatedly stressed a decisive break from the foreign policy of his predecessor. The Nobel Peace Prize winner Obama deployed a missile-equipped drone once every four days, while Bush averaged one every forty seven.⁵³ The normalisation of the categorisation and control of life within a global threatscape is evident as even Bernie Sanders, the self-professed 'Democratic Socialist' and figurehead of a possible resurgent Left in the US during the 2016 presidential campaign, agreed that Obama's drone war was both constitutional and legal, adding that US citizens "have a lot of right to defend ourselves".⁵⁴ Sanders then calls to the international law standard of 'self-defence'. Whether at policy level, in academia, or in the media, much of the debate surrounding the drone – the contemporary centrepiece of the counter-terror arsenal – focuses upon the legal and ethical implications. Officials of the Obama administration continually stressed the need for transparency and the former president's wish that the US hold itself to "the highest possible standards" in the conduct of a just, humanitarian war – reminding us this is indeed a war, but against an organisation and its affiliates.⁵⁵ This is therefore a war that demands secrecy, resilience, determination, and principles to win, along with asymmetrically powerful technology - to the point of unilateral force – but which nonetheless retains the ethical and legal legitimacy of 'warfare'.

Harold Koh, then legal advisor to the State Department, outlined the legality of Obama's drone war in a March 2010 address to the American Society of International Lawyers, in what he called 'The Law of 9/11'. The geography of the war, he argued, was dictated by the nature of the enemy, as "the United States finds itself engaged in several armed conflicts": "in the conflict occurring in Afghanistan and elsewhere, we continue to fight the perpetrators of 9/11: a non-state actor, al Qaeda (as well as the Taliban forces that harbored al-Qaeda)".⁵⁶ Acting in the right of self-defence, targeting individuals was then legitimate, as these individuals were belligerents: while stressing that "great care" is taken in adhering to the principles of proportionality and distinction - keeping the "collateral damage"

⁵² Jessica Purkiss, Jack Serle, 'Obama's Covert Drone War in Numbers' for *The Bureau of Investigative Journalism* (17 January 2017) <https://www.thebureauinvestigates.com/stories/2017-01-17/obamas-covert-drone-war-in-numbers-ten-times-more-strikes-than-bush>

⁵³ Andreas Lorenz, Juliane von Mittelstädt, Gregor Peter Schmitz, "'Messengers of Death': Are Drones Creating a New Global Arms Race?" in *The Spiegel* (21 October 2011) <http://www.spiegel.de/international/world/messengers-of-death-are-drones-creating-a-new-global-arms-race-a-792590.html>

⁵⁴ Bernie Sanders at a campaign rally in Hartford Conn. quoted in Telesur, 'Bernie Sanders says US 'Kill List' Legal, backs Troops in Syria (27 April 2016) <<https://www.telesurenglish.net/news/Bernie-Sanders-Says-US-Kill-List-Legal-Backs-Troops-in-Syria-20160426-0017.html>>

⁵⁵ For examples see Barack Obama, 'Remarks by the President at the National Defense University' Fort McNair (23 May 2013); John Brennan, 'The Ethics and Efficacy of the President's Counterterrorism Strategy', Wilson Center Washington DC (30 April 2013)

⁵⁶ Harold Koh, 'The Obama Administration and International Law' Keynote Speech at the Annual Meeting of the American Society of International Law (25 March 2010)

of civilian casualties to a minimum - "U.S. targeting practices, including lethal operations conducted with the use of unmanned aerial vehicles, comply with all applicable law, including the laws of war".⁵⁷ The non-state nature of the enemy then justifies not only targeted killing, but surveillance and drone strikes across sovereign borders. Lawfare as defined by Dunlap is the use of law alongside other tactics to achieve a military objective.⁵⁸ In drone war, continual reference to the law is directed not only to the democratic audience both at home and abroad, but this limiting of drone discourse to the level of legal technicalities also functions to de-politicise the practice, ultimately dehumanising the target. The dehumanisation necessary in war *for life* is evident in the erasure of the pain of targeted populations: the embodied experience of affected populations is effaced in military acronyms and legal discourse that is used to frame the debate.⁵⁹ The myriad complex and ambiguous terms that are mobilised in the lawfare of targeted killings - including imminence, distinction, militant, affiliate, and military aged males - exposes the flexibility that is available to the powerful within law. It is not the evocation of a "state of exception" that enables the excesses of security, but rather a negotiation of the "margins of (il)legality".⁶⁰

The legal and ethical debate on drones, whether for or against, is focused upon ascertaining the 'right' and effective use of this technology. Questions on the 'technical' capability, and limitations, the technology is an assumed good with the right framework. The problematic fails to question "the strategies they serve or the structures of power of which they form a part"; as Allinson has argued, the "common assumptions that lie behind these positions, in particular the core assumption which presents the current drone operators (or indeed, Western military personnel in general) as perfectly rational, liberal subjects sifting through information about potential targets to carry out just acts of killing".⁶¹ Anything that would go (ethically or legally) wrong it is assumed would be due to a failing of individuals behind the technology, with technology providing a rational failsafe against human error. The use of drone technology to surveil-and-strike is itself then seen as fundamentally ethical and neutral, a virtuous tool in the right hands. The corporeality is distanced, the death and destruction sanitised. Advocates of drone warfare consider it to be the humanitarian and surgical weapon of asymmetry *par excellence*: an assessment which effaces the racialised distinctions of this biopolitical management, informed by a 'military orientalism'. The world is reconfigured as an amorphous battlespace - if not subject to drone strikes then holding the

⁵⁷ Koh, 'The Obama Administration and International Law'

⁵⁸ Charles J. Dunlap 'Lawfare: A Decisive Element of 21st Century Conflicts?' In *Joint Force Quarterly* Vol. 54 No. 3 (2009).- Legal experts Michael Reisman and Christ Antoniou quoted: "Yet the enemy is fighting back by mounting a massive—and increasingly effective—lawfare campaign. Using the media, they seek to create the perception, especially among Afghans, that the war is being waged in an "unfair, inhumane, or iniquitous way."

⁵⁹ Thomas Gregory, 'Drones, Targeted Killings and the Limitations of International Law' in *International Political Sociology* Vol.9 (2015) pp.197-212

⁶⁰ Kyle Grayson, 'Six Theses on Targeted Killing' in *Politics* Vol.32 No.2 (2012) pp. 121-122

⁶¹ Jamie Allinson, 'The Necropolitics of Drones' in *International Political Sociology*, Vol. 9 No. 2 (June 2015) pp.113-114. The legal debate has been touched upon above in reference to the stretched concept of 'imminence' in the exercise of self-defence.

bases that support this perpetual policing and targeted killing. Advocacy of the drone is based in the superiority of information, processed according to ‘humane’ laws of war, and in the claim that a precise incision can be made when the fog is cleared, with minimal ‘collateral damage’. But how is the enemy, to be precisely targeted, to be identified?

In the aforementioned drone speech, Obama warned “from Yemen to Iraq, from Somalia to North Africa, the threat today is more diffuse”.⁶² Such an expansion of sites of disorder sets the stage for an escalation in legitimate sites of military force. The general surveillance and targeted violence is sustained by an expansive network of drone bases in and around what are termed in the National Security Strategy of 2015 as “areas of instability, limited opportunity, and broken governance”.⁶³ Turning away from large-scale military intervention “in which the United States – particularly our military – bore an enormous burden”, the strategy envisions a multi-faceted effort to combat the “persistent threat of terrorism” and “address the underlying conditions that can help foster violent extremism such as poverty, inequality, and repression”.⁶⁴ The involvement of the West, and specifically the foreign policy of the US, is not recognised in the destabilising of governance, and ultimately in this ‘fostering’ of violent extremism. The failure to uphold stability is completely placed at the door of those ‘unfree’ and ‘backward’ Others, now subject to US counterterrorism. Further, the expansion of the drone programme - operating in postcolonial, ‘ungoverned’ spaces - fails to recognise the colonial history of aerial policing. The Federally Administered Tribal Areas (FATA) of Pakistan which endures the most concentrated level of drone strikes and surveillance, are a result of British colonial rule, as a region that could never be pacified but that served as a buffer against Afghanistan. The mountainous region of Waziristan, the site of the first known CIA drone strike, had also been the site of insurgencies against British rule in the 1920s and 1930s. Just as ways of life were judged as a challenge to British rule, so now populations are surveilled and assessed on their susceptibility to extremism. As elaborated throughout this dissertation, governance is associated with a specific set of criteria, whereby any ‘lack’ is constituted as a danger.

Addressing the 2015 anti-extremism summit, Obama argued that oppression and lack of human rights create an environment ripe for exploitation: “When peaceful, democratic change is impossible, it feeds into the terrorist propaganda that violence is the only answer available”.⁶⁵ The pursuit of long-term global stability and security is then dependent upon the spread of democracy, human freedom thus inextricably linked to democratic governance, outlined by Obama as free elections, the rule of law, policing that respects human rights, free speech, and freedom of religion. The functioning transnational regime of truth – disorder emanating from backwards, non-liberal spaces – sustains the normalised exception of US

⁶² Barack Obama, ‘Remarks at National Defense University’; Further, see Derek Gregory’s work on the ‘everywhere war’, theorised as a conflict characterised by transnational, asymmetrical violence in the global borderlands. Derek Gregory, ‘The Everywhere War’ in *The Geographical Journal*, Vol.177, No.3 (September 2011) pp. 238-250.

⁶³ United States, ‘National Security Strategy 2015’ (White House: President of the US, 2015) p. 9.

⁶⁴ ‘National Security Strategy 2015’

⁶⁵ Barack Obama, ‘Address to Anti-Extremism Summit’, Washington DC, State Department, (19 February 2015)

counterterrorism in a maximalist vision of security. A definitive tenet of liberal doctrine concerns the removal of the condition of war from the life of civil society. However, life is continuously referenced as justification of force in pursuit of international order and stability. If military operations must be carried out by liberal states, these can only be in the name of protecting and promoting humanity.⁶⁶

Drone warfare combines tenets of biopolitics with disciplinary power and the sovereign power of death, surveilling and controlling entire populations, then demarcating those who are deviant as terrorists, insurgents, affiliates, or militants. Drone strikes are the thanatopolitical arm of biopower. Through the racialised caesura of 'good' life, any sign of abnormality can elicit a death sentence. The fabricated vision of international peace and stability is shaped around the promotion of a universal 'human' life - one which renders the Other as inherently insecure, barbarous, and subject to violent intervention. The drone reduces life to information, calculable as safe or threatening, a technology that monitors, surveils, and categories 'problematic' populations. As Koh argued, the US will be both stronger and safer through "living our values by respecting the rule of law".⁶⁷ Obama released a Presidential Executive Order in July 2016 to address pre- and post-strike measures designed to reduce civilian casualties. Within the Order, the former president stresses the value of civilian life to the US, and steadfast commitment to "obligations under the law of armed conflict, including those that address the protection of civilians, such as the fundamental principles of necessity, humanity, distinction, and proportionality".⁶⁸ Outside of active war zone, international human rights law apply, but the US has argued that this changed geography of conflict, against a non-state actor, demands a "non-international conflict".⁶⁹

The post-9/11 idea of exceptional measures for exceptional times has been adjusted to the tone of 'overseas contingency operations'. Legitimised through law in terms of necessity and security, the evocation of emergency powers used to enact violent excesses of internal order are evidenced in the Western-dominated international landscape. To oppose normal legality to exceptional – illegal – violence is to reproduce the liberal paradigm of law as neutral. Law is not a naturally occurring system guiding society toward human emancipation, nor is law the force of pacification marking the end of war. It is clear that

⁶⁶ Evans, 'The Liberal War Thesis' pp. 747-756.

⁶⁷ Koh, 'The Obama Administration and International Law'

⁶⁸ Barack Obama, Executive Order 13732 'Executive Order — United States Policy on Pre- and Post-strike Measures to Address Civilian Casualties in U.S. Operations Involving the Use of Force', 81 Federal Register 44485. (1 July 2016); Accompanying this executive order was a summary of governmental figures of deaths from strikes, intended as another step in attaining the transparency owed to the 'American people': US Office of the Director of National Intelligence, 'Summary of Information Regarding U.S. Counterterrorism Strikes Outside Areas of Active Hostilities' (2016). The discrepancy in the numbers of civilian deaths, the government calculation being significantly lower than non-governmental, is attributed to information and intelligence that only the government is privy to, and is not elaborated on in this text.

⁶⁹ For an overview of the debate surrounding the issue of 'non-international armed conflict' and the implications upon the functioning legal apparatus see: United Nations General Assembly, 'Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism', A/68/389, (18 September 2013) pp. 18-19.

these ‘fundamental principles’ elide the history of colonial war and exploitation against which the ‘civilised’ was constituted against. The laws of armed conflict are subject to logics of liberal ethical and legal legitimacy, where ultimately slaughter is cloaked in the language of (just) war. In his philosophical analysis *Drone Theory*, Gregoire Chamayou explores the implications upon the law and philosophy of war minus the relation of reciprocity.

Constructing a risk-less warfare, placing the invulnerability of one’s soldiers as moral norm, depoliticises the conflict by criminalising the enemy, ultimately conducting a police action.⁷⁰ With the advent of drone technology, the mobilisation of massacre no longer demands the expenditure of life on both sides. The deadly defence of existence can be done remotely.

The civilians in question, to be defended by humanitarian force, are not afforded the immunity reserved for the righteous combatants – the US pilots.

Precision is championed as a humanitarian way of war that is enabled through the drone, the operator not only able to traverse vast distances and harsh terrains - all while remaining within the US - but also the processing of information is able to determine the ‘truth’ of a terrorist target. Brennan argued that the drone was a ‘wise’ choice not only to distance the US soldier from the battlefield, but “with the benefit of technology”, they “might actually have a clearer picture of the target and its surroundings, including the presence of innocent civilians”.⁷¹ The argument goes, if (liberal) warfare must happen, it should be as ethical as possible. A clearer picture of the target suggests a clear-cut battle space, with a ‘known target’ from which to distinguish the civilian. In this schema, ethical and humane means facilitate precise ends. The reliance on technology assumes a neutral observer, but as Espinoza argues, the juxtaposition posed between ‘rational’ (liberal) warfare and the ‘irrational’ enemy “upholds and reinforces civilisational hierarchies of US rational violence versus irrational terrorist violence”; the image of the orientalised militant, against which the drone is a reasonable response, (re)produces the colonial hierarchies of violence and oppression, legitimised through “science, progress, rationality, and modernity”.⁷² A weapon does not determine discrimination, the ability to pick out a target through the fog of war from the innocent civilians around.

The administration furthered the notion that drone technology sharpened the previously blunt blade of counterterrorism, as Brennan claimed in a 2011 question and answer session that for almost a year there had not been “a single collateral death because of the exceptional proficiency, precision of the capabilities that we’ve been able to develop”.⁷³ The US capacity for scientific advancement and progress had then brought a

⁷⁰ Gregoire Chamayou, *Drone Theory*, (trans.) Lloyd (London: Penguin, 2015) pp.163-165

⁷¹ John Brennan, ‘The Ethics and Efficacy of the President’s Counterterrorism Strategy’ Address delivered at Woodrow Wilson Center for Scholars, Washington DC, (30 April 2012) <https://www.lawfareblog.com/text-john-brennans-speech-drone-strikes-today-wilson-center>

⁷² Marina Espinoza, ‘State Terrorism: Orientalism and the Drone Programme’ in *Critical Studies on Terrorism*, Vol. 22 No. 2 (2011) p.4

⁷³ John Brennan speech at John Hopkins quoted in Chris Woods, ‘Covert Drone Strikes and the Fiction of Zero Civilian Casualties’ in *Precision Strike Warfare and International Intervention: Strategic, Ethico-Legal, and Decisional Implications* (ed.) Arronson et. al. (London: Routledge, 2015)

new humanity to warfare. The ability to make such claims is dependent upon how the dead are categorised and condemned. Calls for transparency belie the bias of 'discrimination', premised upon an ability to determine a militant from a civilian, statistics muddying the waters: as Chamayou laments "the legal discussion drags on with technical quibbles from statisticians and forensic experts who, distracting from public scrutiny from the human reality of the concrete effects of armed violence, further objectify and disembody the existence of the victims"⁷⁴. The discourse of rationality and technical neutrality is underpinned by the cultural and racial constitutions of an 'us' and an abnormal 'them'. The 'colonial gaze' exercised through drone warfare constitutes part of a long history of imperial surveillance, alongside the settler colonial history of the US.⁷⁵ The calculations of which lives are dispensable, are constituted through a web of cultural and racial signifiers of difference, and therefore danger.

"A Cancer That Has No Immediate Cure"?

The site of intervention is pathologised in the discourse of drone warfare, as harbouring diseased cells, with the potential to spread in lieu of intense, targeted treatment.⁷⁶ In unmistakably biopolitical language, John Brennan celebrated the use of the drone as "essential" due to "surgical precision", able to eliminate the "cancerous tumor" while "limiting damage to the tissue around it".⁷⁷ How are these tumours, so expertly removed, identified in the first place? The Obama administration bureaucratised and normalised the identification and rooting out of targets in both personality and signature strikes. The disposition matrix, popularly referred to as the 'Kill List', is a database that catalogues suspected enemies to the US against an account of the resources that are being spent in their pursuit. Established in 2010, this matrix was designed to institutionalise the use of drone strikes in the process of counterterrorism as a long-term feature of national security. Brennan characterised what he referred to as the 'playbook' as an attempt to establish a "set of criteria, and have a decision-making process".⁷⁸ Following a lawsuit from the American Civil Liberties Union (ACLU), the 'playbook' for direct action against terrorist targets was released

⁷⁴ Chamayou, *Drone Theory*, p.147

⁷⁵ Espinoza, 'State Terrorism' p.5, Espinoza dispels the notion of the 'neutrality' of the drone pilot, "The discourses of humanitarianism, precision and rationality propagated by the government to defend drone strikes are neither neutral nor novel. They are strategic discourses that share a continuity with the counterterrorism discourses of the Reagan, Clinton and Bush administrations, as well as with colonial and imperial discourses of Britain's Royal Air", Force the 'neutrality' of the drone pilots is directly referenced in this text.

⁷⁶ There are many references equating terror - both foreign and domestic - with cancer, the example from the heading of this section is from Barak Obama, 'Address to the Nation on the San Bernardino Attack and the War on ISIS' The White House (7 December 2015)

⁷⁷ Brennan, 'Ethics and Efficacy'

⁷⁸ See the report by Greg Miller 'Plan for Hunting Terrorists Signals U.S. Intends to Keep Adding Names to Kill Lists' in *The Washington Post*, (23 October 2013) and Karen Young, 'CIA Veteran John Brennan has Transformed U.S. Counterterrorism Policy' in *The Washington Post* (24 October 2012)

– with redactions – by the administration in 2016.⁷⁹ The document outlines the centralisation of decision and review within the National Security Council, but does not shed any light on the conditions to be met for the decision to kill, who ultimately is authorised to make this call, and the information that is necessary, leading a lawyer at the ACLU to lament “we’d hope that they’d fill out what they mean by ‘continuing’ and ‘imminent’, or ‘feasible’ or ‘unfeasible’”.⁸⁰

The reduction of life to data is ever starker in a practice that formed the cornerstone of Obama’s counterterrorism agenda, ‘signature strikes’. Introduced in 2008 under Bush, the CIA received permission to attack not only ‘High Value Individuals’ that were known, but also to *suspected* militants “as part of a dramatic expansion of its campaign of drone strikes in Pakistan’s border region”.⁸¹ Individuals or groups, often defined merely as ‘unknown extremists’, are surveilled in ‘ungoverned spaces’ and catalogued in a ‘pattern of life’ analysis. ‘Dangerous’ or ‘suspicious’ patterns are determined according to ‘defining characteristics associated with terrorist activity’ that have never been publicly disclosed.⁸² In Army Manual 3-60 on Targeting, the collation of information on a ‘High Value Individual’ described the ‘life pattern analysis’ as connecting the relationships between places and people to find a pattern: “While the enemy moves from point to point, reconnaissance or surveillance tracks and notes every location and person visited. Connections between those sites and persons to the target are built, and nodes in the enemy’s network emerge”.⁸³ ‘Nodes’ refer to critical points of intersection, points of relative stability, in the hunt for insurgent networks then these are a place where anyone association could be considered a potential affiliate. These nodes depict a network mass demanding a different strategy to a hierarchical decapitation. Mass surveillance is geared toward the identification and elimination of these critical ‘nodes’, in order to dissolve the network. Once the movements and relations of the everyday are established, predictions can be made on an individual’s behaviour, and any abnormalities highlighted. The extension of this life pattern analysis and the integration of personality and signature strikes is described by investigative journalist Gareth Porter. Through an example of mapping the insurgent network through phone records and numbers, Porter argues “the link analysis methodology employed by intelligence analysis is incapable of qualitative distinctions among relationships depicted on their maps of links among ‘nodes’ [...] the inevitable result is that more numbers of phones held by civilian noncombatants show up on

⁷⁹ Rita Siemion, ‘Presidential Policy Guidance: Procedures for Approving Direct Action Against Terrorist Targets Located Outside The United States and Areas of Active Hostilities’ in *International Legal Materials*, Vol. 56 No. 6 (2017) pp.1209-1225; Presidential Policy Guidance, ‘Procedures for Approving Direct Actions Against Terrorist Targets Located Outside the United States and Areas of Activist Hostilities’ (22 May 2013)

⁸⁰ Jameel Jamil quoted by Cora Currier, ‘White House Finally Releases its “Playbook” for Killing and Capturing Terror Suspects’ in *The Intercept* (7 August 2016)

⁸¹ See David Cloud, ‘CIA Drones have Broader List of Targets’ in *Los Angeles Times* (5 May 2010): also, Chamayou, *Drone Theory*

⁸² James Cavallaro, Stephan Sonnenberg, Sarah Knuckey, *Living Under Drones: Death, Injury and Trauma to Civilians from US Drone Practices in Pakistan* (Stanford: International Human Rights and Conflict Resolution Clinic, Stanford Law School; New York: NYU School of Law, Global Justice Clinic, 2012) p. 12.

⁸³ Army Techniques Publication, ATP 3-60 (FM 3-60), *Targeting* (Washington DC: Department of the Army, 2015) p.B-3

the charts of insurgent networks. If the phone records show multiple links to numbers already on the “kill/capture” list, the individual is likely to be added to the list”.⁸⁴ Regardless of the nature of the contact, simply belonging to a particular group is damning evidence: local communities and relations become criminalised.

Beyond the targeting of identified, specific targets, signature strikes regulate the mass on the basis of signals and patterns, that are said to reveal nefarious intent. They are, therefore, an amorphous weapon of war in both geographical and temporal terms. The threat assessment and targeting of bodies or groups is predicated upon a potential, future threat, sentenced to death without trial. By simply existing in these dangerous spaces, the behaviour, connections, and movements of individuals are judged against patterns believed to signify danger, who can then be targeted based on presumed (future) guilt. The difficulty of determining civilian from insurgent can be even further muddied, such as in the Tribal Areas in Pakistan where the carrying of arms is commonplace. A resident, Esso Khel remarked to Amnesty that “anyone who grows a beard and has a gun and drives a car - people think he might be a taliban fighter [...] but over here every man carries a gun so you cannot tell who is Taliban and who is just a local in his village”.⁸⁵ The temporality of threat has therefore shifted toward potentiality.

As spaces are categorised and understood as disorderly and therefore dangerous, the populations therein become subject to surveillance and evaluation of the potential. The suspicion of association is also evident in the use of ‘secondary strikes’, also known as the ‘double tap’. This practice entails multiple strikes on a target area, which have resulted in the deaths of first responders. In a disturbing testimony to a study by the Stanford and New York law schools, Hayatullah Ayoub Khan recalled a strike that occurred while driving between Dossali and Tal in North Waziristan, seriously damaging a car in front of him. Upon seeing signs of life, he slowly approached the wreck, when a voice from inside called out for him to leave, warning of the possibility of a second strike. Returning to his own car, a second missile was launched, killing everyone left inside the wreckage.⁸⁶ The report notes the moral and legal concerns thrown up by this double-tap, as both civilians and professional humanitarian personnel are deterred from approaching a site to attend to the wounded and collect the dead, some aid agencies even having imposed a six-hour mandatory delay in response. This secondary strike then not only deems anyone willing to help as a potential threat, but completely dispels any possibility of recovery.

A pre-emptive biopolitics that is founded upon a presumptive imminent threat reconfigures war in a globalised drone conflict against a transnational network of ‘affiliates’. The introduction of the term ‘affiliate’ into US security policy jargon, having no formal legal authority, is identified by Ian Shaw as indicative of a future-oriented conception of danger

⁸⁴ Porter quoted in Chamayou, *Drone Theory*, p.51

⁸⁵ Amnesty International, “Will I be Next?”: *US Drone Strikes in Pakistan* (London: Amnesty International Publications, 2013) p.28

⁸⁶ Cavallaro et.al, *Living Under Drones*, pp.75-76, Khan also remarked that villagers waited for 10 minutes to remove the bodies - one of which was a teacher that the interviewee recognised.

whereby threat is located in the possibility of emergence and association, security understood as anticipation and prevention.⁸⁷ The ‘affiliate’ is a problem of population, whose resistance is located in local failings, in the racialised spaces of unfreedom and therefore insecurity, that are subject to the constant and unaccountable gaze of the operator. This burden of assumed association is reflected in the official US numbers of civilian casualties – notably lower than any non-governmental estimates – as the Obama administration counted “all military-age males in a strike zone as combatants” unless proven otherwise at a later point.⁸⁸ As military-aged males *en masse* are considered a risk, the process of distinction is clouded by deterministic observation and suspicion.

The mere existence of potentially threatening life in ‘areas of concern’ is at risk of being ‘affiliated’ by the operator. Cockburn opens his genealogy of the drone with an account of an attack which took place in Afghanistan on 21st of February 2010, where 23 civilians were killed and 12 injured. While helicopters delivered the devastating blows, drones had provided the vital visual information. The subject of an investigation by the ACLU, it is a particularly well-documented case and provides a glimpse into the command structure and scope of people involved in the authorising of an attack. Two small SUV’s and a pick-up truck, carrying more than thirty men, women, and children were travelling from the mountain, unbeknownst to them toward a planned raid on a village by US special forces and Afghan soldiers. The kill chain of the US military assembled on that day stretched from the ground and airspace of Afghanistan across the US. The ground troops were accompanied by the helicopter gunships in Afghanistan, the drone was operated by a pilot stationed in Nevada who was supported by a sensor operator and a mission intelligence coordinator, and the images transmitted were being fed to the Hulbert Air Force Base in Florida where two ‘screeners’ processed the intelligence. Home to the ‘Distributed Common Ground System’, from Florida this stream – and the accompanying messages between pilots and ‘screeners’ – was also fed to the Special Operations Task Force Headquarters in Kandahar as well as the Combined Special Operations Task Force in Bagram.⁸⁹ A loop installing multiple degrees of separation

The transcripts reveal the instant gravitation toward the revelation of wrongdoing, as the pilot attempts to identify a weapon: “I was hoping we could make a rifle out. Never mind”. As the convoy made a stop, the *potential* danger posed by the *potential* militants became ‘truth’ to the pilot in a signature of dangerous behaviour: “This is definitely it. This is their force. Praying? I mean, seriously, that’s what they do”. To which the mission intelligence coordinator replied, “they’re going to do something nefarious”. Despite surveilling a Muslim majority country, the everyday practice of prayer enters the matrix of Islamophobic suspicion: terrorism has been equated with Islamic fundamentalism, the fear and mistrust of Muslims is fuelled by a notion of Islam as a backward, deviant, and dangerous religion, as something

⁸⁷ Ian Shaw, ‘Predator Empire. The Geopolitics of US Drone Warfare’ in *Geopolitics*, Vol.18 No.3 (2013), pp. 1-24

⁸⁸ For a report on the complexities of the executive control of the Kill List under the Obama administration see: Jo Becker and Scott Shane, ‘Secret “Kill List” Proves a Test of Obama’s Principles and Will’ in *The New York Times* (29 May 2012)

⁸⁹ Allinson, ‘Necropolitics of Drones’, p.121; Cockburn, *Kill Chain* pp.2-3

nefarious. Praying is what *they* do.

Alongside the determination of a pattern of threat, the radicalised violence of thanatopolitics is also revealed in the blurred distinction between child/adolescent/Military Age Male, which designate who can be lawfully, and ethically, killed. The ambiguity of the terms leads to confusion as in the subsequent report it is noted that the definition of 'adolescent' differs from screener to screener. While one claimed that "I personally believe an adolescent is a child, an adolescent being a non-hostile person", another identified 9–14-year-olds, and a final used the term to identify 7–13-year-olds, adding that "in a war situation they're considered dangerous".⁹⁰ Age designation somehow contingent upon the state of operations. While all military aged males can be assumed to be a potential target - as a threat - the lack of conceptual clarity in 'adolescent' can lead one individual to claim individuals as young as 7 in war zones to be subject to lethal force. In the course of over four hours from the initial sighting of the vehicles, and across the various parties viewing the feed, the possible presence of children and weapons on the screen is debated, and ultimately a special forces sergeant confirms that "12 to 13 years old with a weapon is just as dangerous". The orders relayed to the helicopters cited a positive identification of at least three weapons, and a party of 21 military aged males: of the twenty-three killed, two were young boys of 3 and 4 and eight men, one woman, and three children were wounded, and no weapons were found. The assumptions of the identification had not only determined each member to be a military aged male, but in the ascription of this label - of their being men, old enough to pose a threat (however defined) - they were automatically defined as militants, and therefore a legitimate target.

Drones, as the 'clean' and 'precise' tool of 'overseas contingency operations', are tasked with the sustained management of abnormality, contingency, and terror. The thanatopolitical exercise of the right to kill, is not the only damage of the technique of targeted killing through a biopolitics of examination, categorisation, and separation. Placed under a constant surveillance, living under drones, with the knowledge that a wrong move could place you on the kill list, psychological trauma is inflicted every day. The shadow of drones cast into every aspect of life, as a Pakistani journalist reported, "If I am walking in the market, I have this fear that maybe the person walking next to me is going to be a target of the drone"; a former New York Times journalist who had been a captive of the Taliban explained that "the buzz of a distant propellor is a constant reminder of imminent death"; while a humanitarian worker compared the underlying tension to the immediate aftermath of 9/11, as a "continuous tension, a feeling of continuous uneasiness. We are scared. You wake up with a start to every noise". Beyond the martial moment of a strike, the engendering of a constant fear of monitoring - of being out of place or next to the wrong people - is a tactic of control: life under drones "changes people's sleeping patterns, failing behaviour, and friendship circles", thus aerial targeted assassination entails a biopolitical logic beyond death: it is "the ordering and

⁹⁰ Headquarters United States Armed Forces - Afghanistan, *Executive Summary for AR 15-6 Investigation, 21 February 2010 CIVCAS Incident in Uruzgan Province, [Memorandum]* Kabul, Afghanistan (13 April 2010)

policing of the lifeworld".⁹¹

Normal Security, Essential Terrorist

Within the logic of biopolitics, the pursuit of preserving human life means life must be secured and controlled. Invocations of humanity in the conduct of these operations rely upon the notion of the abnormal inhuman, of the barbarous, the enemy of freedom. That threatening life emerging from within the species, identified as emerging from particular sites, must be disavowed of its humanness, becoming the inhuman, stripped of rights as a dangerous potential. The populations where such aberrations hide then undergo constant processes of securitisation and surveillance, to weed out the baddies. Chamayou refutes the so-called 'humanitarian weapon':

"Beneath the mirages of militarized ethics and state lies, this is the assuredly humanitarian and ethical principle of drones: the targets are presumed guilty until they are proved innocent – which, however, can only be done posthumously"⁹².

This non-life can only be redeemed after the fact of living. For the life under constant surveillance, there is a constant suspicion: the life that is ultimately targeted is guilty until proven innocent, which amounts to a mere statistic if recognised at all. The individual bodies contributing to the mass of population being surveilled are completely stripped of their identity, reduced to patterns. They are vessels of information from which to judge the norm, and to eradicate the abnormal. In a 1988 essay, Edward Said fleshed out the concept of the 'essential terrorist'. The exclusionary limits placed around 'humanity' are highlighted as the "spurious excuse of 'fighting terrorism' serves to legitimize" myriad state-sanctioned sins. The production of the cultural image of an essential terrorist sweeps aside 'our' violence in "the righteous enthusiasm for deplored Arab, Moslem and nonwhite 'terrorism'".⁹³ The discourse of legality and ethicality that dominates considerations of drone warfare is underwritten by a biopolitical logic that demarcates safe and risky populations in the project of securing life itself. Examining drone warfare through the lens of biopolitics, exposes the spatio-temporal implications of a transnational struggle to pre-empt the emergence of dangerous modalities of life. The life-to-be-secured, under constant, existential threat from those remnants of the backward, illiberal, unfree world, demands a transnational pacification force. Targeted killing is not a new tactic, dronification reflects the national security strategy of pacification, a normalised security project.

⁹¹ Cavallaro et.al, *Living Under Drones*, pp.81-82, 98

⁹² Chamayou, *Drone Theory*, p. 146.

⁹³ Edward Said, 'The Essential Terrorist' in *Blaming the Victims: Spurious Scholarship and the Palestinian Question*, Said and Hitchens (ed.), (London: Verso, 2001) pp. 149-158, quote pp. 154-155.

Conclusion: In Defence of 'Freedom'

"That battered word, truth, having made its appearance here, confronts one immediately with a series of riddles and has, moreover, since so many gospels are preached, the unfortunate tendency to make one belligerent. Let us say, then, that truth, as used here, is meant to imply a devotion to the human being, his freedom and fulfilment; freedom which cannot be legislated, fulfilment which cannot be charted"

- James Baldwin, *Notes of a Native Son*, p.15

The advent of drone war was a stark exposure of the transnational martial power of liberal order-keeping, but as has been shown throughout this dissertation, the ability of some to transcend borders with expeditionary force is prefaced upon the illiberal, unfree, and inhumane nature of the targeted site. At the core of contemporary debates on targeted killings and assassinations is the nature of liberalism, what Kyle Grayson has characterised as an "ambivalence about liberalism: Is liberalism a good system that can produce bad outcomes, or a bad system that can produce good outcomes?"¹

Human rights have come to form a central pillar in the moral framework of the liberal order, in the representation of an inherently peaceful and benevolent power. While supposed as a transcendental, deterritorialised facet of humanity, through the lens of US security we can see the fault lines inscribed in universal human rights. The evocation of human rights norms contributing to the problematising of nations targeted by sanctions or strikes, the pursuit of peace mired in illiberal violence which begs the question, is liberalism able to critique the illiberal measures of peace-keeping and pacification? How can we escape this dilemma, where peace is war on the periphery.

At the outset of this investigation, I made reference to the recognition of security "as a contingent problem in diverse problematisation"; Bonditti et. al. outline the aim of genealogy as critical security method to "displace security as a privileged object by performing historical empirical work on more heterogeneous dispositions that relate to security but are not necessarily built around it as a foundational problematisation".² In proposing the analytical frame of a human rights 'regime of truth', I have sought to examine the monopolisation of human rights - in the form of negative, civil and political rights of the individual - as a function in US (inter)national security policy. Human rights as a standard of sovereignty in US foreign policy was first deployed in reference to aid conditionality, an epistemological association that has been integral in the conceptualisation of state failure and roguery. This regime of truth functions to institute liberal violence in the furthering of human rights and fundamental freedoms as a pathway to peace, and shapes the practices that are deemed as suitable in implementation.

Freedom, while held in such a privileged position of liberal thought, I argue is manifest as

¹ Kyle Grayson, 'The Ambivalence about Assassination: Biopolitics, Culture and Political Violence' in *Security Dialogue* Vol. 43 No. 1 (2012) p.36

² Philippe Bonditti, Andrew Neal, Sven Opitz, and Chris Zebrowski, 'Genealogy' in *Critical Security Methods: New Frameworks for Analysis* (ed.) Aradau, Huysmans, Neal, Voelkner (London: Routledge, 2015) p.178

the pursuit of expanding freedom as security which instituting the securing of a (neo)liberal democratic order. Investigating the liberal govern mentalities of security, Kienscherf highlights that exclusions are not "directed at all and sundry" and in fact, "liberal authoritarianism in general, and liberal violence in particular, tends to be aimed at individuals, populations, and spaces that are seen as either recalcitrant to liberal rule or as threats to the liberal capitalist order".³ The meaning and mobilisation of human rights offers a lens to analyse the construction of liberty within logics of security. I have sought to account for a narrow definition of rights as the freedom-to-be-defended, which considers unfreedom alongside underdevelopment, therefore insecurity. These standards problematise postcolonial spaces as dangerous, as reneging upon the 'mutual' duties of sovereignty in the international system, and therefore as threats to be pacified.

Through the method of a genealogy, I have unearthed the distinctions that are drawn across the international, between biopolitics and thanatopolitics, by means of pacification inherently linked to the logics of the 'civilising mission'. Interrogating contemporary bombing, or rather drone strikes for rights, I posit these violent exclusions as constitutive of the supposed neutrals of freedom, order and peace. In challenging the excesses of human rights enforcement, this cannot simply be a question of *more* freedoms or *stricter* legal protections, neither are free from the offending power relations: the postcolonial cannot simply be placed on top. Through a critical discourse analysis and an International Political sociology-inspired unsettling of the 'problem' of the International, this dissertation has sought to de-disipline the study of the International and to expose the entrenched, dichotomous fragmentations that structure knowledge production - perpetuated as natural and immutable truths - as sustaining and masking police power. The practice of human rights is constituted through exclusion. Across the three sweeping sections of this work, I interrogate the human rights regime of truth through reference to rights, sovereignty, and pacification, which can be translated as a tripartite clique of the tenets of a liberal response: freedom, the rule of law, and peace.

The 'freedoms' that form the bedrock of US foreign policy documents promote the freedom of the individual from the oppression of the state. Human rights have been explored in this dissertation as a form of power/knowledge instituting a set of practices which monopolises a particular way of life as the secure life. Considering liberalism as an art of government arranged around the problematic of not governing *too much* leads us to what are considered as the founding fathers of liberalism and the distinctions that are proposed as carving out a distinctly liberal identity. The relation of liberty and security is the hinge that holds this dissertation together. Freedom is common-place in the vernacular of US statecraft, self-defined as a nation born in liberty, as the "land of the free". While 'liberty' in Western political thought and intellectual history is construed as a value, and in everyday

³ Markus Kienscherf, *US Domestic and International Regimes of Security: Pacifying the Globe, Securing the Homeland* (Oxon: Routledge, 2013) p.154

discourse as a normative ideal, living 'freely' is a highly mediated practice.⁴ The exclusions inherent in the American and French declarations of 'Man' as holding universal and indivisible rights are well-tread grounds, as is the inflation of the French notion of 'universality' in the drafting of the Universal Declaration of Human Rights. While the Declaration includes poise and collective rights alongside negative, the borrowed framework of the French *Declaration of the Rights of the Man and of the Citizen* has contributed to an anachronistic reading of the international rights history. Both domestically and internationally, alternative and supplementary rights were championed to challenge the singular focus upon the individual suffering under state repression. The question of self-determination na rights remains relatively under-researched, with much further work to be done, but I have argued that to dismiss postcolonial alternative articulations of collective and socio-economic rights as merely expressions of state sovereignty - therefore below human rights - would be to reproduce the contemporaneous narrative of the suffering individual, as well as to assert the hierarchies of sovereign capability. This account fails to reckon with the differentials in which human rights can be deployed in the moralising transcendence of state borders and the wider disparities in sovereign legitimacy.

The regime of truth, authored predominantly by Western politicians, international institutions, NGOs, and Western academics, continues to exclude subaltern knowledge on alternative articulations of freedom, of the human, of development, and rights. The institutionalisation of a US human rights foreign policy and the focus of international institutions has expanded the sites of legitimate knowledge: country reports are submitted to Congress detailing the human rights record of every state (except, of course, the US), while indices of human security and state fragility construct quantifiable standards, projecting a formula for the attainment of human dignity. Political and civil rights have increasingly come to the forefront of rights discourse, as economic and social rights are disregarded as a "letter to Santa Claus" at best, or a quite for tyrannical power at worst; too idealistic, difficult to implement, giving too much power to the state.⁵ As the attainment of political agency is hailed as the pathway to greater economic freedom, particular state forms are formalised as legitimate, just as liberty - construed as in balance with security - is increasingly counted in the terms of (a specific conception of) human rights.⁶ The liberal ascription of human rights with the attainment of greatest liberty, therefore greatest security, must account for the violence of expeditionary security operations in the name of 'human' life.

The post-Cold War re-imagining and redeployment of 'security' saw the championing of a policy-oriented humanising of security championed by the UN, which placed human rights, development, and peace in a tripartite formula for a successful International. Purportedly

⁴ Anthony Bogues, 'And What About the Human?: Freedom, Human Emancipation, and the Radical Imagination' in *Boundary 2* Vol. 39 No. 3 (2012) p.30

⁵ Jeanne Kirkpatrick, 'Establishing a Viable Human Rights Policy' in *World Affairs* Vol. 170 No. 2 (2007) p.79

⁶ Wendy Brown, "'The Most We Can Hope For...': Human Rights and the Politics of Fatalism' in *The South Atlantic Quarterly* Vol. 103 No. 2/3 (Spring/Summer 2004) pp, 451-463; See also Jackson, 'Liberal Intellectuals'.

based in universal needs and rights, security has then been depoliticised as fundamental to human political and economic freedom, where socio-economic needs are provided through the logics of development and politics are ordered according to dictates of negative civil and political rights. In the articulation of 'policy-relevant' research, human security has focused upon development and peace-keeping, placing focus squarely upon the Global South. Violence and poverty are conceptualised as a territorially-situated *lack*, an incapability to provide security and freedom not only for their own population but in the interdependent world of globalisation for humanity at large. An insecurity premise seemingly vindicated by 9/11, again liberty and security came to the fore in the management of illiberal violence in the War on Terror. Perhaps most viscerally displayed in the war not only *against* terror but *for* freedom, where both liberty and security are conceived of as faced, eternal values help in a careful balance for fear of governing *too much*. The addition of 'more' freedom does not account for the exclusions insisted in the monopolisation of 'liberty' as the liberal democratic individual subject. The violence of exclusion that culminate in rights and the defense of freedom can be highlighted through reference to the 'governable' entities of contingent sovereignty.

The state is understood both as the ultimate arbiter of human rights law as well as fundamentally the target. While the post-Cold Ear spate of humanitarian action and the 'anticipatory defence' doctrine of the Bush administration have been decried as unsettling sovereignty, this completely discounts the Western-centric constitution of the international as a problem to be studied. Demands for more law to restrain an overzealous US do not account for the centrality of colonialism in the constitution of the 'sovereign state'. To do this, I have sought to unsettle the attribution of state failure and state roguery - posed as major threats on the world stage - through the lens of human rights standards. Poor governance structure - ultimately unfreedom of subjects - have been related to a complex threats cape of underdevelopment, conflict, terrorism, migration, and other dangerous flows. Analyses which focus solely upon the state in question in search of causal accounts are bound to liberal paradigms of security, wherein the fostering of the 'successful' state is necessary to stem bad circulations while facilitating the 'safe' and 'good' mobilities of money, free trade, tourism, etc. This reinforces and engenders biopolitical divisions of danger. Situating a fundamental lack within the 'failed' or 'rogue' state is an ahistorical reading of their contemporary position on the global periphery, as well as the conditions of emergence of the modern nation-state against the 'inferior' counterpart, a wrong-footed premise in the project of global justice.

Unsettling the foundational assumption of both international law and International Relations, I examined the modern system of territoriality, sovereignty, equality, and non-intervention as structured alongside articulations of the mythologised Peace of Westphalia. Drawing upon Critical Race Theory, the racist assumptions underpinning the constitution of international thought have been exposed: across the foundational notions of social contract theory, the 'state of nature' is a metaphorical realm for the White European held distinct

from the lived reality of the 'savage' indigenous populations - a warning to the civilised. Through this logic, the self is constituted by reference to the Other as insecurity, the unclear, the rogue, the mad, the sick. Proponents of the Neo-Kantian democratic Peace fail to address the fate of the colonial subject in Kant's hierarchisation of personhood. The 'standards of civilisation' - in fact standards of sovereign capability - split the world into the civilised, the semi-autonomous, and the 'savage', distinctions across the international which judged the civil organisation of the state to the standards supposed of the Westphalian peace emergence from religious intolerance in violence. The Other was then placed as stranded in 'state of nature' without their benevolent hand. The institution of the label of state failure or roguery is based in an imposed articulation of sovereignty grounded in 'White civilisation'. The 'success' of sovereignty is predicated upon the failure and barbarity of the colonial subject. Similarly in the post-Cold War furore of the 'novel' practices of humanitarian intervention, any historicising of the precedence throughout history must grapple with colonial contexts and the dichotomies which structured class to legitimacy and humanity. Inside/outside, order/disorder are present in the works of Vitoria as well as John Stuart Mill; any attempt to debunk the ahistorical decrying of the radical novelty of humanitarian operations, or in justifying the 'Responsibility to Protect', must confront sovereignty as the means through which to confront and to control cultural difference.

In considering the institution of the post-WWII order, politically through the UN Charter and economically in the Bretton Woods system, the decolonisation processes entered international security through the problematic of development. The linking of development, human rights, and security as mutually constitutive functions to subsume socio-economic rights and alternative articulations of economic order into a teleological narrative of 'good governance'. I consider the shift in development thinking from the Keynesian-inspired modernisation theory to the ascendance of neoliberalism, alongside the shift in threatscape wherein underdevelopment was rendered dangerous. While President Kennedy had reference to the existing relations of colonisation and the disparate Third Worldism movement that challenged the hegemony of the global economic order, the "magic of the market" as the neoliberal solution to development and integration foreclosed other possibilities, "there is no alternative". Certainly, as Moyn attests, "neoliberalism, not human rights, is to blame for neoliberalism", yet neoliberalism fundamentally shifted the possibilities inherent within articulations of rights discourse.

The commitment of US Presidents, world leaders' and organisations to human rights have focused upon political abuses of the state upon the individual body. Socio-economic suffering has then been subsumed under the rubric of development - related but distinct from rights. The economic is then posited as an apolitical realm while the institution of the foreign policy of democratic promotion under Reagan associated human rights explicitly within democratic governance. The Iranian revolution and ensuing hostage crisis, where Anthony Lake initially proposed the "innovation in jurisprudence" of the rogue state label bridge the Carter and Reagan administrations, and was held up as an example of the naive and inherently threatening premise of modernisation. As I have shown, the constellation of

the 'rogue' was instituted in the Reagan administration as the international 'outlaw', identified as 'totalitarian' regimes who hated the US and incubated a new threat of 'state terrorism'. Thus, their domestic political constitution was married to the national security threat posed to the US.

Both the 'failed' state and the 'rogue' state labels arose in the Clinton administration, as the tension in the UN Charter between the transcendental human rights framework and the norm of sovereign autonomy was aggravated by a series of humanitarian crises. The contradictions between the de-territorialising logics of a universal human rights and the re-territorialising enforcement of sovereign power in designated spaces of threat are pronounced the liberal extraterritoriality to meet the transnational threats of 'mismanaged' postcolonial spaces. The policies of the US as the 'indispensable nation' highlights the differential in sovereign legitimacy. As 'engagement and enlargement' proclaimed the promotion of market democracies - protecting the right of the individual in the free market - this was increasingly tied to an (inter)national security agenda in facing the 'rogues' through the practices of Dual containment - including sanctions in Iraq, all but forgotten in the spectacle of the War to come. The articulation of the weak and failing state presupposed an equal sovereignty, one in which the inability to uphold governance instituted human rights abuses and chronic underdevelopment, problematised as an outcome of unhindered self-determination in decolonisation. Such an assertion perpetuates power-knowledge structures of the international in pathologising and de-politicising sites as doomed to failure through their own shortcomings, completely ignoring the colonial contested and ongoing peripheral position in the global financial order. The 'rogue' on the other hand, conceived primarily as a policy response to Iran and Iraq, was problematised through their external behaviour in flouting international law, however part of this determination was through a judgment on the domestic regime type: those who commit human rights abuses cannot be trusted to uphold the norms of mutuality.

The initial interventions of the War on Terror against the 'failure' of Afghanistan and the 'rogue' Iraq serve to illuminate the juxtaposition between civilised world and the barbaric Other, as (negative, civil and political) human rights norms were immediately deployed in the delegitimising of these spaces as hotbeds for terrorism. The gendered and racialised depiction of the victim and savage were distinguished from the saviour who would institute a regime through freedom through a democratic and neoliberal policy. The Bush doctrine of anticipatory defence was hinged upon a re-articulation of the legal principle of 'imminence' in the fact of a fundamentally 'novel' international, where the unfree in their very existence were understood to pose a possible future threat. To reproduce this claim to novelty, the War on Terror as legal exception, serves to reproduce the ahistorical reading of the (post)colonial lack - a lack of freedom, security, and law. This imminence continues in the expansion of drone warfare across sovereign borders, without the declaration of war. This operation across legal divisions takes us to the final consideration of 'humanising war'.

I disrupt the liberal logics of peace through challenging the foundations of the war/peace divide. If peace is to operate as a critique of the expeditionary use of force justified - at least in part - on the basis of protecting human rights and building a 'successful' regime, it must be recognised such an assertion relies upon distinct spheres of war and peace, a standpoint that can be challenged through the lens of 'pacification'. While 'peace' is the rallying cry of liberal war, these pacific aims institute violence means and I have explored how these moralistic discourse translate into acceptable practices of order-keeping, through an analysis of operations *other than war* and how these are construed as more *humane*. If the 'War on Terror' has become a series of 'overseas contingency operations', a "normalised security project", the assumption of peace cannot offer a standpoint of critique.

In justifying a dronified national security strategy, the Obama administration repeatedly appealed to Just War principles of humanity, precision, distinction, and proportionality. The immense surveillance powers and intelligence gathering made possible by drones are presented as humane in the rooting of rotten parts of a society in order to restore, rebuild, and secure peace. The attribution of 'just cause' reveals a hierarchy of legitimacy, as the 'intention' of a distinct and proportionate violence is constructed against the illegitimate and 'barbaric' enemy target. The just-ness of the Iraq war was presupposed by Bush and Blair upon the unjust-ness of the status quo. However, to analyse the War on Terror as a radically novel and unique blurring of the distinction war/peace reproduces a Eurocentric framing of 'war', an ahistorical premise that disregards the experience of 'small' wars historically construed as peace-keeping, pacification, and as part of the civilising mission. A vocal opponent of French imperialism, renowned author-killing theorist Roland Barthes proposed a reading of 'African Grammar' deployed by the French colonialist justification of violence where "the goal is to deny" the very existence of war, "war is then used in the sense of *peace*, and *pacification* in the sense of *war*".⁷ Decolonising the study of war through the concept of pacification, as proposed by Neocleous, enables a critique of the war/peace distinction alongside the structuring dichotomies of military/police, outside/inside.

Working both before and beyond Foucault in the recognition of constitutive colonial exclusions of biopolitics, I also extra racialised divisions read as "cultural differences" which inform the practices deemed necessary and legitimate as well 'how' war is fought. Premised upon the institution of order and keeping the peace, these wars sought to 'know' the populations under fire while destroying an asymmetrical force - again depoliticising the Other in their determination as rebels or insurgents - as the institution of order in the rule of law, human rights, capital, the promise of "a brighter and nicer new life".⁸ Exploring the colonial legacies of both counterinsurgency and air power through US engagement with British and French knowledges on imperial administration is not to quantify the extent of US interaction with colonial-inherited know-how, rather to study how the logics of pacification function as a means of minimum force, as security. Critiqueing the oxymoron of 'humanising

⁷ Roland Barthes, *Mythologies* (New York: Hill and Wang, 1972) p.155

⁸ Neocleous, "A Brighter and Nicer New Life", pp.197-198

'warfare', I examined pacification as mediating the tensions between human rights and sovereignty, as the humanity of these populations is recognised through achieving the management and regulation of a 'successful' state. Extending the research on 21st century biopolitical warfare, which often side-lines the colonial constitution of operations *other than*, I consider pacification as the violence of liberal-order-making as a means to centre a decolonial perspective on war/peace, considering the hierarchisation of 'real war' alongside the distinctions made in the promotion of life.

The 'counterinsurgency turn' of the US Army in the midst of the Iraq War has often been portrayed as the injection of 'humanitarianism' into war both in aims and in means, even in critical literature. The Counterinsurgency manual received the stamp of approval from a prominent human rights scholar as a 'Radical Field Manual' and what has been referred to as a "cultural turn" embedded social scientists into combat units in an attempt to *know* the population, an essentialised and orientalise Other. While not to suggest an unproblematic history of continuity, to situate the Iraq War within the history of US engagement with Vietnam in terms of the development of 'pacification' in the late 60s as well in the US development of 'small war' thinking which theorised 'Low-intensity Conflict' and 'military operations other than war', is revelatory of persistent humanitarian logics and of the continued tying of war to 'traditional' forces between nation states. While the practices of pacification have instituted the continual terror of surveillance, targeted attacks, and indiscriminate killing, this has taken place alongside projects of economic and political development in 'keeping the peace': in a universal humanism, the inhumanity is thread through the colonial subject as a foil for the 'human' of rights.

The external imposition of order renders a moral asymmetry supposed through 'superior' knowledge, technology, freedom, and political aims. Turning to the related notion of air power, the twin imaginaries in the advent of this terrestrial force of liberation and elimination again evoked the notion of policing power, lest this technologic fall into the wrong hands: peace was possible but only when assured by the 'good'. Examining air power through considerations of pacification and security, the instances of British 'imperial policing', clearing the fog in Vietnam, as well as the escalation of drone warfare under Obama, reveals a conceptualisation of aerial bombing and surveillance as an inherently humane practices of enforcing order. While the tribal areas between Pakistan and Afghanistan were subjected to colonial policing in the 1920s and now terrorised by the fear of instant-death in a drone strike, air power is hailed as humane and distinct, in enabling a 'light touch'. There is no return to a 'past' where war and peace were wholly distinct in order to untangle contemporary blurring. As I have shown, we must recounted the histories of pacification that contribute to the human rights regime of truth.

The framework of the human rights regime of truth complicates the ascendance of human rights as a standard of sovereignty and offers a way to conceptualise liberal violence that is undertaken in the pursuit of freedom and peace. The constant expansion of liberal democratic security is geared toward the (re)production of liberal capitalist order,

reinforcing the social, economic, political, and cultural dimensions that this order entails. Situating the failure or the rogue outside due to their own incapacities is an ahistorical reading of peripheral positions as well as the conditions of the emergence of the modern nation state. The equal sovereignty premise is one of inclusion, of an expanding realm of peace, security, and freedom for all. However, this narrative voice obscures the exclusions within humanity predicated upon the acenhtion of 'humane' governance. This silencing is integral to the delegitimising of postcolonial sovereignty, as a sovereignty contingent rom its very foundation. The practices of dispossession, accumulation, and the denial of rights are turned against the Other in human rights standardising, as a market of a barbarous lack of civilisation and a racialised marker of instability.

This dissertation was partly motivated by the aim to destabilise the taken for granted 'truth' of universal human rights by exposing the assumptions underpinning the problematising of sovereign spaces and in distinction to empirical studies on the 'causes' of problem states, which presuppose the image of the 'successful' state.

There is empirical work to be done on how lives are valued and devalued through the human rights regime of truth both in domestically as well as international policy. For example, while I have touched upon the Islamophobic practices that have been carried out both on bodies and spaces that are Othered and Orientalised, juxtaposed to the supposed secularism of the modern Westphalian sovereign, the unsettling of claims to peace, law, and freedom that are used int he provision of 'security' could be useful in challenging the renovation of rights of Muslim populations under suspicion with particular references to how 'ways of life' are tied to formations of freedom and security. In challenging the security measures of both domestic and foreign counterterrorism practices in the US, how are human rights claims negotiated, understood, applied, and transformed? What forms of life are valued and how are these communities problematised through and for rights? In a similar vein, as mentioned in the introduction to this book, the focus upon the monopolising of the discourse by the most prominent (national) power as I have done, leaves little space for subjugated knowledges. Further work must be done beyond the dominant Western sovereign states, in NGO and activist circles as well as non-Western communities and states, to interrogate how alternatives have challenged the norm, where this has entered the dominant discourse, and where these knowledge have been silenced. As this book has detailed, human rights function to reinscribe the power relations both within and between states, and considering historical and contemporary aid and military missions in the name of human rights can reveal how and where these power relations are enforce and and where they break down. While any attempt to recognise a 'human' right carries ethical and political pitfalls and implications, a radical human rights would have to challenge existing power relations and knowledges.

As this work has taken the form of a more sweeping, theoretical analysis, the everyday experience of human (in)security must be researches as well as accounting for the political economies of human rights, where the provision of human rights is joined to (neoliberal)

developmental practices. How has this pairing (and separation) of rights and development - political rights distinct from socio-economic *needs* - affected lives in the populations of failed and rogue states? Further, empirical work on the knowledge-production and supplementary policy toward states that enter into the realm of 'failure', aside from military intervention, could unearth the implications of how life is problematised, what practices are excluded as 'unfree', and what values are promoted as a dignified life.

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