Oppositional Logic and the Limits of Western Rights Theory: Analyzing Human Rights in the Global War on Terror

by

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Abstract

Formalizing human rights into law created a global standard for protecting all human beings. However, while the United Nations Declaration of Human Rights promises inalienable rights equally applicable to all individuals, many are excluded from this promise. This thesis argues that Western rights theory is limited in application due to its reliance on oppositional logic. Focusing on select events during the United States' global war on terror, this study argues that the current understanding and application of rights by leading democracies, such as the United States, ensures that rights cannot be extended equally worldwide. An in-depth analysis of the implications of the hierarchical nature of current rights theory informed by several primary theorists, including Jacques Derrida, Elisabeth Weber, Judith Butler, David Wills and Grégoire Chamayou—all of whom have contributed significantly to the discourse on the ethical and legal implications that the war on terror has on universal human rights—is presented to demonstrate how the oppositional logic that underpins the Western philosophical tradition justifies ongoing violence against colonial others. In bringing the scholarship of leading theorists together, this thesis contributes to the ongoing discourse surrounding the issue of human rights and the global inequality that prevails despite the Western promise of universal rights and justice.

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Introduction

The current understanding and application of human rights fall short of providing universal rights and justice, as current rights theory emerged alongside European colonialism. The colonial origins of human rights present a critical issue for rights theory—particularly because the same oppositional logic that once justified colonialism informs current understandings of rights. As a result, this thesis argues that the oppositions that inform the current framework of rights and impose exclusionary hierarchies on Western culture, results in a theory of rights that cannot be universal. To analyze the limitations of current rights theory, this thesis traces the genealogy of the concept of rights identified in contemporary critical literature and considers the implications of this genealogy by analyzing select human rights violations. Select events during the global war on terror, orchestrated by the United States of America in response to attacks on September 11, 2001, act as case studies for an analysis of the limitations of rights theory. While there are numerous ongoing human rights abuses and international law violations that could serve as case studies for this thesis, I chose to focus on recent events in the Western world, such as the US response to 9/11, because, as the author and guarantor of rights, the Western world plays a unique role in determining when and how human rights are extended to individuals.

My interest in current interpretations and applications of human rights, as a supposedly universal concept, stems from a concern for the rapid erosion of human rights worldwide. Human rights violations remain an ongoing issue in the twenty-first century. Tirana Hassan, the Executive Director of Human Rights Watch—an independent organization investigating global human rights abuses since 1978—reported that the human rights system is under threat in 2024 (1-2). Hassan importantly notes in her commentary on the 2024 Human Rights Watch Report that "when governments pick and choose which obligations to enforce, they perpetuate injustice not only in the present but in the future for those whose rights have been sacrificed" (2). For this purpose, this thesis must critique the current understanding and application of rights theory by dominant countries, like the United States, that selectively adhere to international law—including international human rights law. Numerous examples exemplify a similar precedent, including major humanitarian crises due to ongoing hostilities between Israel and Hamas, Russia and Ukraine, as well as large-scale violence in Sudan, to name a select few. Without a significant transformation of the Western application of human rights and international law, the current

precedent that perpetrates unequal access to the rights and protections that all human beings are entitled to, according to the United Nations, threatens to become permanent.

Despite numerous international institutions, laws, and treaties that coincide to protect the rights of global citizens, such as the Universal Declaration of Human Rights, which promises universal and equal rights for all subjects, the erosion of human rights is an urgent issue. The Human Rights Watch World Report 2024 offers nearly eight hundred pages that detail the inequality and violence perpetrated against women, girls, LGBTQ+ and disability communities. The World Report also highlights various political, environmental, and economic factors that contributing to global violence and injustices against civilians. As a result, I attempt to address the erosion of human rights and bring attention to a few factors that contribute to the inability of human rights systems to provide universal access to rights and justice. In particular, I am concerned about the unequal access to rights and justice demonstrated from one community to the next.

The emergence of the current rights theory in a modern and Western context resulted in a logic of rights that perpetuates Western superiority. As will be demonstrated in the following chapters, the binary oppositions that inform much of Western culture have historically perpetuated violence against women, non-human animals, nature, and non-Western populations, including African, Indigenous and Middle Eastern individuals. This logic, inspired by René Descartes' seventeenth century philosophy that introduced a hierarchy between the rational mind and the biological body (mind/body), underpins many aspects of Western society such as patriarchy (man/woman), animal maltreatment (man/animal), and the climate crisis (man/nature). Furthermore, these hierarchies subjugate non-Western populations through an inference of Western superiority, including rational/irrational, civilized/uncivilized, and superior/inferior—all of which associate the West with the higher, privileged term and others as the lower, inferior term. Due to the inseparability of current understandings of rights from hierarchical oppositions, rights cannot be equally accessible to all.

Many notable philosophers and theorists, such as Jacques Derrida, Elisabeth Weber, David Wills, Grégoire Chamayou and Judith Butler, contribute to the critical analysis of human rights, particularly in post-9/11 America, and provide invaluable insight into the current crisis of human rights. Moreover, many other theorists consider the legal, ethical, and moral obligations of the United States and other Western countries and institutions to consider how its political and

military actions impact the individual rights of others worldwide. While this thesis does not venture to present an entirely original approach to this topic, it aims to bring together important scholarship that deals with the issue of rights while maintaining one focused argument—that the Western promise of universal human rights and justice cannot be fulfilled for all individuals because it relies on oppositional logic.

In what follows, I provide an in-depth analysis of the issue with current rights theory from its inception to the present day. Chapter 1, following a select overview of the emergence of the individual from the sixteenth century onward, considers the development of early rights theory. Informed by oppositional logic that justified European colonial expansion, individual rights did not apply to historically marginalized communities. Therefore, an analysis of the lasting impact of an exclusionary rights theory demonstrates how hierarchical oppositions continue to inflict violence against marginalized groups by restricting access to rights and justice. In Chapter 2, the US response to 9/11 demonstrates how the oppositional assumptions in rights theory lead to the privileging of rights and justice for individuals in the Western context while simultaneously suspending access to the same rights for non-Western individuals. An analysis of the invasion of Iraq, as well as the torture and detainment protocols practiced by the United States, an analysis informed by Derrida and Weber, illustrates how democratic governments routinely suspend the rights of non-Western individuals.

Lastly, Chapter 3, building on the analysis presented in Chapter 2, considers how the suspension of rights undermines international law and the institutions built to uphold them. Furthermore, it argues that Western nations, such as the United States, selectively adhere to international law, including international human rights law, and thus set a precedent for other countries to do the same—directly contributing to the erosion of human rights. While the capability of sovereign nations to act outside, or above, international law has potentially permanent and global implications for current understandings and applications of law and rights, research demonstrates how non-Western countries, particularly in the Middle East, experience the ramifications of these actions through terror and trauma. Together, these chapters aim to contribute to a broader critique of human rights as a Western concept and call attention to the exclusion of colonial others to encourage a reconceptualization of rights that encourages a recognition of universally shared humanity and a responsibility to limit the suffering of others.

Chapter One

The Emergence of the Individual and the Origin of Rights Theory

Central to this thesis is the interpretation and application of human rights in contemporary Western society. This chapter aims to briefly trace the emergence of modern rights theory—a theory that prioritizes the individual as primarily rational, not embodied, and as independent and separate from society. The individual, in the modern sense, "stresses a distinction from others," which prioritizes the self-determination and freedom of "man" over his place in society (Williams *Key Words* 161). By virtue of these premises, modern rights theory has historically come to rely on an oppositional framework that privileges mind over body, and the individual over his social world. In Chapter 2 and Chapter 3, specific instances concerning the understanding and application of rights in the United States of America demonstrate the inevitable violence inherent in the hierarchical concept of rights. However, before analyzing the limitations of rights theory, I consider the context through which rights emerged and how its oppositional and exclusionary concepts have carried through to the present day.

In what follows, I consider how current rights theory emerged in a modern and Western context. The emergence of the concept of the individual as separate from the collective and the natural-animal world is central to the genealogy of the concept of rights identified in contemporary critical literature, including the sources considered in this chapter. Genealogy, a term used by both Nietzsche and Foucault, is summarized by Marta Bashovski "as a method of tracing the complex histories and origins of concepts that are assumed to be timeless and/or universal […] and aims to show how these concepts emerged through specific cultural, social, and political circumstances" (Bashovski). Following this definition, the present chapter traces a limited genealogy of human rights—a concept often portrayed as universal in the contemporary world—to illustrate how individual rights emerged through specific cultural, social, and political developments in European society from the sixteenth century onwards. In particular, this thesis is concerned with how the oppositional and exclusionary foundation of rights theory perpetuates notions of Western superiority. Thus, I illustrate how oppositional logic grants male dominance

over women, non-human animals and nature as well as how it perpetuates violence against Black, Indigenous, and Middle Eastern communities in both Western and non-Western nations.[1]

The purpose of this chapter is a lofty one, as the geo-political implications of the Western concept of the individual and human rights extend globally. However, while the impact of rights theory was, and remains, far-reaching, this chapter focuses on the issue of rights theory as it is understood and used by the West. It is important to note that I am aware of the dangers of oversimplifying the complex history that has led to the modern development of rights. Despite having only one chapter available to trace the genealogy and the limitations of current rights theory, I am persuaded that these developments are essential to introducing the following chapters of this thesis and therefore cannot be overlooked.

A Shift in Worldview

The emergence of the individual as an authority in his own right remains central to the core idea of this thesis because the concept of individual rights does not function without the individual. The transition from the medieval to the modern individual was a crucial shift in European social thought and practice (Williams *The Long Revolution* 74). Raymond Williams explains that the term individual, in medieval thought, meant indivisible or inseparable and was used to indicate a member of a group (73). The individual defined by group membership differs significantly from the modern individual who is considered absolute in his own right (74). Williams notes that "the emergence of notions of individuality, in the modern sense, can be related to the break-up of the medieval social, economic and religious order" and that the modern concept of the individual is a "result of the development of a phase of scientific thought and of a phase of political and economic thought" (*Keywords* 164). The following pages of this thesis consider scientific,

[1] As William McNeil notes in "What We Mean by the West," there is no singular definition of "the West." Instead, the term is a constantly evolving reference to Western civilization and is often in contrast to "the East." As McNeil importantly notes, the meaning of the West is defined based on who is using the word and for what purpose (513). Thus, it is important to clarify that for the purpose of this thesis, the West refers primarily to Western Europe and North America as my scope is limited to the Western European and North American development of human rights. At times, the term "Eurocentric" will also be used descriptively to highlight how the concept of the individual and individual rights are founded on the cultural norms and philosophical thought that began in Western Europe and spread throughout the Western world. In both cases, my intention is to point to the notion that concepts like the individual and human rights are founded on logic that centers European philosophical thought and excludes non-Western concepts and individuals from consideration.

political, and economic developments, from the sixteenth century onward, that contributed to the significant shift in the social order and challenged the dominant worldview in favour of the individual, and individual rights.

From the fifth to as late as the sixteenth century, the prevailing worldview across Europe rested on the authority of Aristotle and the Catholic Church. For centuries, Aristotle (384 BC-322 BC) set the dominant social and theoretical paradigms in European society. For example, Aristotle directly influenced social thought by arguing that the natural world rested on an inherent hierarchical organization known as the Great Chain of Being (Clutten-Brock 427). Aristotle's theory suggests that the Great Chain of Being "extended from the inanimate world of non-living matter, such as earth and stones, through the animate world of plants, zoophytes, and the lowest forms of animal life, upwards to the quadrupeds and eventually through Man to the realms of angels and finally to the Christian God" (428). Aristotle's theory, combined with the authority of the Catholic Church, resulted in a medieval social order that was "a divinely ordained system of aristocracy, monarchy, land-ownership, and ecclesiastical authority" (Israel 4). However, Fritjof Capra explains that this medieval worldview began to shift dramatically throughout the sixteenth and seventeenth centuries. In Capra's words,

> the [medieval] notion of an organic, living, and spiritual universe was replaced by that of a world as a machine, and the world-machine became the dominant metaphor of the modern era. This development was brought about by revolutionary changes in physics and astronomy, culminating in the achievements of Copernicus, Galileo, and Newton […] Acknowledging the crucial role of science in bringing about these far-reaching changes, historians have called the sixteenth and seventeenth centuries the Scientific Revolution. (54)

The Scientific Revolution, therefore, began when Nicolaus Copernicus, and then Galileo Galilei, proposed scientific theories that contradicted Aristotelian physics and the Holy Scripture of the Catholic Church. Copernicus (1473-1543) and Galileo (1564-1642) are significant figures in this genealogy of rights because their revolutionary theories challenged Aristotle's Great Chain of Being. According to Juliet Clutton-Brocks' explanation, Aristotle believed that the "Earth was […] the center of the world" and the "seven planets (including the sun and moon) moved around the earth in oblique courses to the left, while the outer heaven […] moved from

left to right" (423). In contrast, Copernicus proposed that the Earth was not at the center of the universe and, instead, revolved around the sun (Copernicus 20). Copernicus' theory proved controversial as it directly contradicted Aristotle's hierarchical ordering of the natural world—the same hierarchy that informed the Catholic Church (11). Therefore, Copernican theory challenged "theology's age-old hegemony" by implying that a revision of the "geocentric view of […] the bible that had been accepted dogma for more than a thousand years" was necessary (Israel 4; Capra 54).

Similarly, Galileo's advancement of Copernican theory challenged Aristotelian hierarchies when he argued that there was no proof that the Earth was at the center of the universe and, instead, suggested that the Earth, and other planets, revolved around the sun (Galilei 33, 51). Galileo's work was radical because it invalidated Aristotle's cosmology and contradicted the Holy Scripture. As a result, Galileo outraged the Roman Catholic Church for his "having held and believed a doctrine which [was] false and contrary to Holy Scripture" and was later charged with heresy (McMullen 5). By challenging the Church, Copernicus and Galileo questioned the long-accepted dogma and contributed to the idea of the individual, both directly and indirectly (Capra 54). While I am not suggesting that Copernicus or Galileo were "rights" theorists, their importance to this thesis is in their connection to early modern challenges to the earth-centered universe that, in turn, challenged the position of the Pope and the King as central authorities. Through astronomy, Copernicus, Galileo, and many other thinkers questioned the hierarchal world order—a precursor challenge to the emergence of the modern individual.

Martin Luther (1483-1546), a German priest and significant figure of the Protestant Reformation, advocated for a reform of the Roman Catholic Church that supported the authority of the religious individual. Like Copernicus and Galileo, Luther's challenge to the Catholic Church is significant to the genealogy of rights because his controversial work helped transform the medieval social order. Importantly, Luther questioned the lack of biblical evidence for papal supremacy and proposed a less authoritative relationship between the Pope and the religious individual, even suggesting that the individual's salvation was determined by God, not the Pope (Luther 6, 26). Furthermore, Luther argued that all Christians are equal and that the Pope should not have power over the salvation of others (21-22). In other words, Luther's criticism of the Catholic Church rested on the ability of the Pope to speak with the authority of God and rule

over religious individuals with absolute power. Luther's Reformation suggested that religious individuals could be religious on their own authority and answerable only to God; individuals did not need to answer to the Pope. By criticizing Church practices and challenging papal authority, Luther contributed to the transformation of the religious order that continued throughout the sixteenth and seventeenth centuries, which, in the end, supported the emergence of the modern individual.

In the seventeenth century, René Descartes (1596-1650), a philosopher, scientist and mathematician, emerged as an influential thinker who broke away from the Aristotelian Scholastic tradition and ushered in a modern era of philosophy that redefined the individual. Descartes' revolutionary work, *A Discourse on the Method* (1637), proposes a dualistic paradigm that is imperative to the development of the individual in the modern context and that significantly influenced early theories of rights. Descartes' principle, *Cogito Ergo Sum,* or "I think, therefore I am," rests on his conclusion that the "whole essence or nature" of the individual "consists only in thinking" and is not dependent on any material thing, including the body (Descartes 45). This principle results in a radical bifurcation of the mind and body. By introducing a hierarchy between the mind and body, Cartesian philosophy grants value to the mind because it is rational and, according to Descartes, disembodied, to radically distinguish man "from the brutes" (7). By defining the individual in terms of rationality, Descartes elevates the status of the mind above the body and therefore introduces an inherent hierarchical dichotomy to the individual. This aspect of Descartes' philosophy influenced many Enlightenment thinkers and remains prevalent in today's Western philosophical traditions. Descartes' philosophy, which notably elevates the authority of the individual, contributed to the modern development of rationalism and individualism. The concept of the individual as both rational and self-reliant was revolutionary. However, Descartes' principle suggests a framework of the individual that is inherently exclusive, as many individuals were excluded from accessing the privileges afforded to those who possessed a rational mind—an issue with far-reaching consequences that I return to in the coming pages.

Isaac Newton (1643-1727), well-known as a mathematician and physicist, advanced Descartes' mechanistic worldview by "cultivat[ing] mathematics so far as it regards philosophy" (Newton lxvii). In *The Mathematical Principles of Natural Philosophy* (1846), Newton approached philosophy and the laws of nature through a mathematical and rationalist lens

(lxviii). The rationalist and mechanical view of society championed by Descartes, and developed by Newton, had considerable influence on the philosophical approach of Enlightenment thinkers (Capra 68-69). Capra explains how Newton's atomistic theory reduces nature to its smallest part, the atom, which demonstrates how Newtonian physics promotes a reductionist view of nature (66). Newton's theories became the foundation of Western physics for nearly two centuries and shaped a reductionist approach to science and medicine that, in some respects, continues to prevail. Most pertinent to this thesis is Newton's influence on atom theory, which became the foundation for the modern philosophical understanding of society. The reductionist nature of Newtonian physics inspired the separation of the individual from society and the recognition that individuals have authority apart from the whole community.

The Enlightenment and The Individual

The Scientific Revolution and the development of modern philosophical thought had a lasting impact on Europe and, indeed, on the Western world. While many social, political and economic changes during this period supported the protection of individual rights and discouraged oppressive governments, I argue that the concept of the individual, and the foundation of Western rights theory, are profoundly exclusive. While the "emergence of notions of individuality, in the modern sense, can be related to the break-up of the medieval social, economic, and religious order," the recognition of the individual did not free society from the oppression of hierarchy (Williams *Keywords* 163). Despite the many philosophical theories that supported individual authority and argued for individual access to rights, these rights were limited in application. The spread of Descartes' rationalist worldview significantly influenced European philosophical thought throughout the Enlightenment. As Anthony Gottlieb notes, "all the major philosophers were followers in his footsteps even if they did not embrace all his ideas. By the eighteenth century, Descartes […] was a popular starting-point for any philosophy that regarded itself as modern" (27). As a result, Cartesian dualism had a major influence on the modern concept of the individual and early theories of rights.

The Cartesian principle, "I think, therefore I am," significantly informed Enlightenment philosophers and continues to underpin philosophy in Western Europe and North America today. This principle imposes a hierarchy between the mind and body (mind/body). By privileging the higher over the lower term, Descartes' hierarchy, mind/body, elevates the rational mind over the

physical body. The hierarchical relationship between mind/body is particularly significant because it provides a foundation for all hierarchies that inform the Western philosophical tradition. Inextricably linked to the mind/body duality are the hierarchies between man/woman, man/animal, and man/nature, all of which grant rationality and power only to the male. The development of individual rights in the West was influenced by Descartes' dualistic logic and these intrinsically violent hierarchies continue to undermine the modern concept of rights. Emerging alongside European colonialism and hegemony, Cartesian hierarchies contributed to the justification for colonialism, slavery, and the denial of rights to non-Western populations. Since Cartesian logic grants the rational male mastery over the natural world, all others—women, non-human animals, nature, and non-Western populations—are subject to domination and subjugation. Therefore, while the Enlightenment gave way to many theorists, such as John Locke, Jean-Jacques Rousseau, Immanuel Kant, and Thomas Jefferson, all of whom supported the social, political, and economic advancements of the individual and rights, these advancements assumed oppositional logic and were therefore exclusionary.

John Locke (1632-1704), widely considered one of the most influential Enlightenment thinkers, contributed significantly to modern thought, including the development of the modern concept of the individual. According to Locke, individuals are equal and independent and therefore cannot be subjected to the superior power of another (Locke 9, 17). As Maureen Heath explains, Locke's belief in the authority of the individual demonstrated a "confidence in an individual's capacity to seek truth for themselves, rather than simply submitting to the opinions of the government or Church institutional authority" (Heath 213). Locke argued that individuals were inclined to join civil society and enter into a social contract with a representative government—one that would protect individual rights, such as private property, and could be dissolved should it "breach the trust" of the people (Locke 42, 111). Capra notes that Locke's understanding of individual authority as the foundation of civil society was inspired by the mechanistic worldview of Descartes and Newton (Capra 69). However, while Locke's vision of modernity supported individual authority, his philosophy was limited in application. I argue that Lockean philosophy, like many philosophies developed during the Enlightenment, was influenced by Cartesian logic that imposed hierarchical oppositions and was therefore exclusionary.

In *The Colonialism of Human Rights,* Colin Samson demonstrates how Locke's vision of modernity perpetuates racial hierarchies that stem from oppositional logic. For example, Samson highlights that Locke's social contract did not apply to slaves and excluded African populations (Samson 13). Locke, who, Samson notes, held a position on the Board of Trade and Plantations—a body that regulated the British slave trade—argued that the exclusion of African slaves from the social contract meant that they could "legitimately be subject to absolute or arbitrary authority" (13). Furthermore, while Locke's chapter "On Slavery" in his *Second Treatise of Government* suggests that "the *natural liberty* of man is to be free from any superior power on earth," he does not consider the issue of slave trade throughout Europe (Locke 17). During this time, African individuals were subjected to hierarchical oppositions that placed them in an inferior position to their white counterparts. Instead of being treated as modern individuals with authority and rights, millions of Africans were sold into the trans-Atlantic slave trade. Without access to individual authority, African populations experienced "racially differentiated relationships to the state" and were not given access to the rights afforded to European men (Samson 14). When Locke does comment on slavery, he argues that slaves are not a part of civil society and, as a result, are subject to absolute dominion by their masters (Locke 45). Overall, Locke's view of slavery suggests that he perceived some populations as inferior to others by excluding them from the social contract and restricting their access to rights. Additionally, the lack of consideration of the trans-Atlantic slave trade suggests that Locke was not concerned about the treatment of African populations. While Locke's philosophy remains important to Western philosophical and political thought, it is necessary to acknowledge the presupposition of Western superiority that underpins it.

Similarly, the work of Jean-Jacques Rousseau (1712-1778), an influential political philosopher, shaped the political importance of the individual. However, Rousseau's philosophy, like Locke's, was limited in application. Rousseau believed that individuals were naturally free, autonomous, and capable of making their own decisions (Rousseau 208). To Rousseau, the state depended on individuals exchanging natural liberty for the "civil liberty and the proprietorship of all he possesses" (19). Therefore, Rousseau suggests in *The Social Contract* (1762) that individuals must come together to create a civil state so that man can be transformed from a "stupid and unimaginative animal" into an "intelligent being and a man" (18-19). Rousseau valued the individual to the extent that he believed that the civil state should be dissolved if it

were found to be treating anyone unjustly (303). Despite his revolutionary understanding of society which inspired the French Revolution, Rousseau did not go so far as to consider the way that African slaves were being treated by the state and society. While Rousseau did consider the issue of slavery in *The Social Contract,* he did acknowledge Europe's participation in slavery and colonization of African populations. Therefore, Rousseau's philosophy, which inspired significant change across the Western world, perpetuated Cartesian dualism. Ultimately, only rational, European men were considered in the social contract while non-Western populations were excluded from accessing individual authority.

Immanuel Kant (1724-1804), a central Enlightenment thinker, provides another example of a European philosopher who supported the freedom and equality of individuals. However, Kant's understanding of the individual included only the white, rational male in this category. Similar to the philosophy of Locke and Rousseau, Kant's description of the individual and rights is limited because it excludes non-Western populations. According to Kant, the original right of humanity is freedom and therefore all individual human beings are equally free (Kant *The Metaphysics* 114). To exercise this freedom, equality and independence, Kant holds that individuals must enter into a civil condition. (Kant "Doctrine" 112-113). Therefore, to attain rights and exercise freedom, individuals must leave the state of nature and enter into a contract with the state, becoming citizens (112-113). However, Kant suggests that "only the ability to vote qualifies one for citizenship" and distinguishes between active and passive citizens (113-114). For Kant, passive citizens include women, servants, and "anyone at all whose existence is preserved […] not by their own means" (114). Passive citizens do not possess civil personhood and are not afforded equal access to rights within the state (114). Therefore, while Kant positions the individual as the foundation of the state and argues that all humans are equal, his philosophy is limited because it does not extend rights to all individuals. This aspect of Kantian philosophy is further displayed by Kant's argument that African and Indigenous populations were inferior in intelligence and strength to white populations.

Kant's work depicted Africans and Indigenous peoples as "natural slaves" without voicing concern for the poor treatment of these populations (264). As Huaping Lu-Adler explains, Kant argued that African and Native American populations were not entitled to equality because they were not "full persons" and were not "naturally equipped" to complete the journey from "the state of nature (savagery), through states of culture and civilization, toward the final

destiny of moralization (perfection)" (267). Furthermore, while Kant took up the issue of slavery in his work, Lu-Adler demonstrates the limitations of his consideration. While Kant argued against voluntary slavery (a civil person cannot relinquish his freedom under the social contract) and supported penal slavery if a law of the state is violated, racial slavery has no place in his framework (271). As a result, Kant does not acknowledge the commodification of African slaves, as legalized by Europe, and does not consider the morality of the slave trade. Thus, while Kant is often considered one of the most influential philosophers in Western history, the scope of his philosophy remains limited. Like many of his predecessors, Kant's interpretation of the individual and rights is underpinned by Western superiority and perpetuates oppositions that exclude populations from accessing rights—a consequence of hierarchical European philosophy that would spread to North America.

The transformation of the European worldview spread throughout the Western world and directly influenced European colonies in the New World. As a result, the expansion of Enlightenment ideas, such as freedom, liberty and justice as well as racial and gender-based subjugation, made its way to North America and had a particularly lasting impact on American society and democracy. Thomas Jefferson (1743-1826), a Founding Father of the United States of America, demonstrated a revolutionary belief in the importance of the individual that was inspired by Enlightenment philosophers, including Locke ("From Thomas Jefferson"). As the primary author of the Declaration of Independence, Jefferson's emphasis on the American's right to "life, liberty, and the pursuit of happiness" was embedded in the Declaration and became the foundation for American democracy (US 1776). However, despite being a champion for liberty, Jefferson believed that Africans were fundamentally inferior and he owned several hundred slaves throughout his lifetime (Bickford and Hendrickson 1). Liberty did not stop laws from being passed in the US to restrict Black populations from accessing rights to ensure that they could not exercise self-determination against the colonists (Samson 84). As Bickford and Hendrickson highlight in "An Inquiry into Liberty, Slavery, and Thomas Jefferson's Place in American Memory," the paradox between liberty and enslavement that emerged alongside colonialism and slavery is intertwined with American history. The contradictory nature of Jefferson's writing and actions provides one example of the hierarchical oppositions that are intrinsically linked to American democracy and, as a product of democracy, human rights.

The spread of Cartesian dualism from Europe to North America ensured that oppositional logic informed democracy and rights theory, particularly as both concepts were developed and championed by the Western world. Dualism presents fundamental limitations as a basis for democracy and human rights because not all individuals are equally entitled to rights, despite the promise of universality. The oppositional and exclusionary logic that emerged alongside colonialism cannot be separated from our contemporary understanding and application of rights, despite the reluctance of many to address this reality. As Edward Said importantly notes in his introduction to *Orientalism* (1978), contemporary philosophers often discuss the work of Enlightenment theorists "without ever taking into account that there is an explicit connection in these classic writers between their 'philosophic' doctrines and racial theory, justifications of slavery, or arguments for colonial exploitation" (13). To understand the limitations of today's application of human rights it is necessary to confront its origins.

Issues with Contemporary Rights

Contemporary human rights were established in the twentieth century following a long history of philosophical debates surrounding the nature of the individual and rights. However, despite a concerted effort to form universally accessible and applicable human rights, contemporary theories of individual rights carry forth the oppositional and exclusive underpinnings of Cartesian dualism. Following World War II, the Universal Declaration of Human Rights (UDHR) was established by the United Nations General Assembly to prevent future abuses against global citizens. To protect the global community, the UDHR recognizes that "basic rights and fundamental freedoms are inherent to all human beings, inalienable and equally applicable to everyone, and that everyone is born free and equal to dignity and rights" ("The Foundation"). However, the oppositional logic of Western philosophy continues to inform Western culture, including the logic of rights. As a result, hierarchical oppositions are inseparable from rights theory, which limits the application of human rights. While many treaties and laws, such as the UDHR, have materialized throughout the twentieth and twenty-first centuries to support and protect universal human rights "they are compromised because people cannot realize these rights equally" (Samson 18). Therefore, equal access to rights remains an ideal rather than a practice.

As Makau Mutua argues in "Savages, Victims, and Saviors: The Metaphor of Human Rights," contemporary human rights have not only inherited violent oppositional logic but are profoundly Eurocentric. Mutua explains that,

> The human rights corpus, though well-meaning, is fundamentally Eurocentric […]. First, the corpus falls within the historical continuum of the Eurocentric colonial project, in which actors are cast into superior and subordinate positions. Precisely because of this cultural and historical context, the human rights movement's basic claim of universality is undermined. (204-205)

Due to its Eurocentric foundation, the dualistic logic of the Western philosophical tradition implies a Western superiority that will always privilege the rights of Western populations over others. With this history in mind, the remainder of this chapter argues that human rights and the institutions built to protect them, cannot be universally applicable as they are understood today. As this thesis attempts to demonstrate, hierarchies that perpetuate dualistic oppositions between different communities will inevitably result in violence. This violence stems from the sense of mastery that is apparent in Cartesian rationalism and that has justified the European colonial project and developed hierarchical relationships between global communities. This chapter highlights the lasting impact of dualism on rights theory and focuses on the violence perpetuated against populations that have historically been excluded from rationalism. Western rationalism, which privileges reason while granting it only to the European male, is inherently exclusionary and oppositional. As a foundation for the theory of rights, the logic of rationalism ensures that rights cannot be equally distributed to all communities because not all communities are considered rational. Those who are excluded from rationalism and deemed inferior in opposition to rationality remain subjugated by any framework that is informed by a dualistic logic—including human rights.

Many communities historically marginalized by European rationalism continue to be impacted by the exclusionary foundation of rights theory. Several prominent hierarchies perpetuated by Cartesian dualism, such as man/woman, man/animal and man/nature contribute to the unequal distribution of rights. For example, while the man/woman binary was revised during the twentieth century to afford both sexes equal rights, Western society remains patriarchal in

practice. The prevalence of patriarchy demonstrates one example of the consequences of the opposition logic that underpins Western culture. Capra points out that patriarchal notions based on oppositional logic were so pervasive until the nineteenth century that their influence is notable in Charles Darwin's revolutionary theory of evolution. According to Capra, "[Darwin] saw the typical male as strong, brave, and intelligent; the typical female as passive, weak in the body, and decent in brains" (112). Western patriarchy prevails today and the hierarchy between men and women is considered by many notable theorists and writers. For example, Hélène Cixous illustrates the oppositional nature of patriarchy in "Sorties: Out and Out: Attacks/Ways Out/Forays" by emphasizing the binaries that function as undercurrents to Western society. She writes:

> Where is she?
> Activity/Passivity
> Sun/Moon
> Culture/Nature
> Father/Mother
> Head/Heart
> Intelligible/Palpable
> Logos/Pathos
> Form, convex, step, advance, semen, progress
> Matter, concave ground— where steps are taken, holding- and dumping-ground
> Man
> Woman. (63)

Cixous' simple, yet impactful, passage acknowledges the man/woman binary that informs Western culture. Alongside man/woman, Cixous calls the reader's attention to other binaries that are informed by the man/woman dichotomy because they privilege the higher term that is associated with masculinity over the lower term that is attributed to the feminine. Throughout each of these binaries, the presence of the superior male mind and the inferior female body is highlighted. She goes on:

> A movement whereby each opposition is set up to make sense is the movement through which the couple is destroyed. A universal battlefield. Each time, a war is let loose. Death is always at work.
> Father/son Relations of authority, privilege, force.
> The Word/Writing Relations: opposition, conflict, sublation, return.
> Master/slave Violence. Repression.
> We see that "victory" always comes down to the same thing: things get hierarchical. Organizations by hierarchy makes all conceptual organization subject to man. Male privilege, shown in the opposition between *activity* and *passivity,* which he uses to sustain himself. (64)

By highlighting the violence inherent in hierarchical oppositions, Cixous notes that men are privileged to the detriment of others when placed in opposition. The Cartesian dichotomy grants the rational man privilege, and mastery, over all else, including but not limited to women. The man/woman duality "provides an important ontological design for all hierarchies" that privileges the mind over the body because "the feminine is inextricably linked not only to women but all peoples of color, nonhuman animals, the poor, nature and so on" (Pfeifer 529). In "Deconstructing Cartesian Dualism of Western Racialized Systems," Theresa Pfeifer explains that "in the tradition of grand Cartesian ideological oppositions that divide, fragment, and separate, presumably the *body* is viewed as base, corrupt, and sordid and by association so are those equated with it" (530). As a result, "all things 'feminine'—animals, body, other, emotion, nature, object of inquiry, and Black—are all deemed worthy of being submerged beneath the masculine so that the 'female' becomes either objectified or negated" (Sturgis qtd. in Pfeifer 530). In opposition to the body, and the feminine, "human, mind, self, reason, culture, inquirer, white become masculine" (Sturgis qtd. in Pfeifer 530). Therefore, Pfeifer's analysis supports the argument that Cartesian dualism, particularly the hierarchy between the mind and body, results in the subjugation of all groups associated with the inferior body. When this tradition is inherited by Western concepts and institutions, such as human rights and the United Nations, the oppositional logic that informs them results in a hierarchy that privileges some at the detriment of others.

Furthermore, Pfeifer's analysis of Western dualism is pertinent to understanding how Cartesian dualism was used to authorize Western mastery over others. Pfeifer's consideration of

the duality between white and black, light and dark, which often underpins Western perceptions of non-Western countries, demonstrates how others are perceived as inferior. Pfeifer explains that,

> The *Dark Continent* is an explicit symbol of the opposition between the forces of "civilization" and images of "savagery" and *dark* primitivism; these symbolisms presume the dualistic splits of White/non-White, modern/pre-modern, industrial/pre-industrial, Christian/heathen, objective/emotional and so on. Arising from the Cartesian mental-physical divide is the unconquerable physicality of the "Other's" body, while in the sublimated fantasies of the White male connotes an incapacity to act rationally in a "civilized" world without containment by higher forces (read: the White ruling-class male strata). (530)

In this passage, Pfeifer illustrates the inseparability of mastery and hierarchical oppositions. In a colonial context, the Western philosophical tradition argues that the non-Western "savage" can only reach modernity and "civilization" with Western intervention. Western philosophy, in this way, perpetuates the idea that non-Western populations are incapable of achieving modern conceptions of civilization, modernity, and rationality on their own accord (Udombana 279). Nsongura Udombana explains how "Western jurists and philosophers […] theorized on the idea of European 'superiority'" and argued that it was the responsibility of the West to bring civilization to others (279). The civilized/uncivilized hierarchy implies that modern and civilized populations of Western nations are subjects that are entitled to individual rights. At the same time, this hierarchy reduces non-Western populations to a homogenous image of the uncivilized other. This hierarchy, which perpetuates Western superiority and depicts non-Western others as "backward," has long authorized the colonization of non-Western populations under the guise of civilization (Samson 15). As a result, non-Western populations continue to be subjected to Western political and economic interventions, particularly the United States of America, that exert mastery over others in the name of modernity and civilization. The civilized/uncivilized and the superior/inferior dichotomies continue to underpin Western rights theory—granting rights to those that conform to Western ideals of rights and justice. As a result, any theory of rights informed by oppositional logic cannot be distributed equally because certain individuals will always be considered inferior.

In “Savages, Victims, and Saviors: The Metaphor of Human Rights,” Makau Mutua demonstrates how human rights uphold Western superiority by perpetuating hierarchical oppositions. Mutua explains that the Eurocentric human rights corpus not only constructs a narrative of Western superiority but conceals the Western bias embedded in it:

> The subtext of human rights is a grant narrative hidden in the seemingly neutral and universal language of the corpus. For example, the U.N. Charter describes its mandate 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.” This is certainly a noble idea. But what exactly does that terminology mean here? This phraseology conceals more than it reveals. What, for example, are fundamental human rights, and how are they determined? Do such rights have cultural, religious, ethical, moral, political, or other biases? What exactly is meant by the "dignity and worth" of the human person? Is there an essentialized human being that the corpus imagines? Is the individual found in the streets of Nairobi, the slums of Boston, the deserts of Iraq, or the rainforests of Brazil? In addition to the Herculean task of defining the prototypical human being, the U.N. Charter puts forward another pretense— that all nations "large and small" enjoy some equality. Even as it ratified power imbalances between the Third World and the dominant American and European powers, the United Nations gave the latter the primary power to define and determine “world peace" and “stability." (206)

Human rights, as a Eurocentric concept, not only perpetuates oppositional logic that privileges some populations over others, but remains defined primarily by dominant Western powers, like the United States and Europe. By holding Western standards of democracy, freedom and human rights as the ideal, the logic of rights supports a narrative that “fits a historical pattern in which all high morality comes from the West as a civilizing agent against lower forms of civilization in the rest of the world” (210). Furthermore, by “[constructing] historical imperatives of superior and inferior, the barbarian and the civilized, and the traditional and the modern” The Western world positions itself as “superior and scientific […] civilization leading and paving the way for others to follow” (201n2). In this way, the West is not only the author of human rights but the arbitrator. As a result, the West not only determines which subjects are afforded equal access to rights but exerts mastery over nations that do not conform to its standards.

The Western concept of human rights is often introduced to non-Western countries through colonial violence that perpetuates hierarchical oppositions and violates the rights of many individuals. The binary construction of human rights discourse pits good against evil—an opposition that more often than not pits Western states against non-Western states (202). Mutua writes that "the 'good' state controls its demonic proclivities by cleansing itself with, and internalizing human rights" while, on the other hand, "the 'evil' state […] expresses itself through an illiberal, anti-democratic, or other authoritarian culture (203). The only redemption for evil states is "submission to human rights norms" (203). For example, the forced installation of modernity in the Middle East carried out by the United States of America is considered further in Chapter 2 and highlights how the rights of non-Western others are often violated to convert them to superior Western standards. The assumption that Western ideals are universal and that non-Western nations are incapable of realizing a version of human rights without Western intervention further perpetuates the colonial narrative that non-Western populations are barbaric, uncivilized, and primitive. These narratives fueled the colonial project of many Western nations and had lasting consequences for colonial subjects, notably African and Indigenous populations in Canada and the US. As Mutua importantly notes, "the simple point is that Eurocentric norms and cultures, such as human rights, have either been imposed on, or assimilated by, non-European societies. Thus, the current human rights discourse is an important currency of cross-cultural exchange, domination, and valuation" (204n14).

The Lasting Impact

The domination of non-Western populations through colonialism occurred through forced assimilation, genocide, segregation and other forms of physical and cultural violence in the nineteenth and twentieth centuries. This violence, justified by the oppositional logic central to modern Western philosophy and culture, violated the rights of colonial subjects and denied them access to justice. The ramifications of this violence continue to impact populations that have historically been subjugated by Europe and North America, both inside and outside Western states. More specifically, due to a long history of oppositional logic that depicted non-Western populations as inferior, uncivilized, and less than human, many Indigenous, African, and Middle Eastern individuals are continually marginalized. This history, which cannot be separated from the concept of rights, means that human rights cannot be extended to all individuals equally.

When Western superiority is embedded in the contemporary understanding and application of human rights, the ability to extend rights to others is limited.

One significant North American example of colonial violence that is necessary to acknowledge is the forced assimilation and cultural genocide by the Catholic Church and Canadian government. As a means of "civilizing" the Indigenous community, Canada separated Indigenous children from their families and sent them to residential schools (Hutchings 303). The residential school system was established by European colonial settlers in North America to "minimize and weaken family ties and cultural linkage, and to indoctrinate children into a new culture—the culture of the legally dominant Euro-Canadian Christan society, led by Canada's first prime minister, Sir John A. Macdonald" (Truth and Reconciliation Commission qtd. in Hutchings 303).

In the twenty-first century, the representation of Indigenous peoples as "biologically, culturally, and—therefore—juridically inferior" prevails and continues to impact Indigenous communities (Samson 29). The National Inquiry into Missing and Murdered Indigenous Women and Girls (2019) reports that the ongoing race- and gender-based violence against Indigenous communities in Canada is a direct result of the colonial structures embedded in Canadian policy and society (2). Today, the rate of missing and murdered Indigenous women and girls has sparked several campaigns to acknowledge and address colonial violence in Canada. For example, "Search the Landfill" advocated for the Canadian and Manitoban governments to search for missing Indigenous women, Morgan Harris, Marcedes Myran and Mashkode Bizhiki'ikwe, whose remains are believed to have been buried in Winnipeg landfills. The refusal to search the landfills announced in 2023 by Manitoba Premier Heather Stefanson was met with outrage, as the decision represented the inadequate allocation of resources to protect the rights and dignity of Indigenous women in Canada ("Canada: Search the Landfills").

Yet another example includes centuries of violence perpetrated against primarily African populations in the trans-Atlantic slave trade. As Samson importantly points out, "the Enlightenment Culture that is credited with creating democracy, Parliamentary systems and human rights valued slave trading and commercial enslavement and was infused with racial ideologies" (75). The European slave trade emerged alongside early developments of human rights. The construction of hierarchical binaries that relegated African populations to an inferior status resulted in the "purchasing, shackling, and transporting" of millions of people from Africa

to the Western World (75). The slave trade transported an estimated 12.5 million Africans over the course of almost 200 years (75). As slaves, African populations were excluded from protections offered by American law and denied access to rights (76). Even as the newly founded United States of America emphasized the ideals of liberty and rights, the application of Enlightenment thought resulted in a continuation of the racial ideologies that justified slavery and the denial of rights to Black individuals. Samson notes that the Declaration of Independence of 1776, a critical document in the development of democracy and human rights, "excluded women, completely ignored enslaved Africans and only briefly and disparagingly mentioned American Indians" (83).

Following the abolishment of slavery, Black Americans were continually subjected to violence, particularly through "institutionalized rightlessness and inferior rights" (85). Centuries of subjugation of African slaves in America have had severe implications on the rights of Black Americans in the twenty-first century. A hierarchical application of rights and access to justice is inherited by the American justice system. As a result, Black Americans continue to experience disproportionate incarceration and are routinely subjected to brutal police violence. Public outrage following reports of unarmed Black children, men and women killed by American police across the nation resulted in the founding of Black Lives Matter—a global organization that aims to dismantle white supremacy and mitigate violence against Black communities ("About"). Black Lives Matter was founded in 2013 following the acquittal of the man who shot and killed 17-year-old Trayvon Martin. The lack of consequences and accountability for police officers and other perpetrators of violence against Black individuals demonstrates the "inability of black people to be heard within systems of rights and criminal justice" (95). The lack of access to rights demonstrates the ongoing treatment of Black Americans as second-class citizens, a subtext that remains from slavery.

Additionally, as Samson illustrates in one chapter of *The Colonialism of Human Rights,* entitled "The Less than Human," Arabs are routinely dehumanized as colonial subjects (103). Particularly important for this thesis, the depiction of "the Arab," as an anonymous figure, "is a metaphor for a colonial process that makes subjects and their way of life uniform, and therefore insignificant" (103). The implications of the dehumanization of Middle Eastern and Muslim populations globally will be considered in-depth in the coming chapters that analyze the application of rights outside of the Western world. For example, the oppositional logic that

depicts “the Arab” as inferior, evil, and savage, is a precursor to the denial of rights to Middle Eastern populations, particularly in the post-9/11 world. The homogenous depiction of the Middle East as evil and inferior to the Western standard of human rights and democracy has led to profound assertions of Western mastery over the Middle East. In the context of 9/11, the rights and justice of American citizens were privileged to the detriment of citizens in Iraq, Pakistan, and Afghanistan. To bring justice to Americans for the attacks of 9/11, the rights of millions of individuals in the Middle East were violated and disregarded. By dehumanizing these populations and stripping them of their individuality, Western powers perpetuate the man/animal dichotomy that privileges the rational male over the biological, or mechanical, animal. As a result, Middle Eastern lives are often depicted as less worthy of rights than their Western counterparts.

The man/animal dichotomy proves to be detrimental to non-human animals, as well as those depicted as less than human. As previously noted, Descartes’ principles elevate the rational mind of man above non-human animals. According to Descartes, man should be “the lords and possessors of nature” due to his superior rationality (78). In “Part V” of *The Discourse on Method,* Descartes proposes that animals are irrational because they lack the speech and reason of man. According to Descartes, this principle illustrates that man’s actions are a result of his reason, while the behaviour of “brutes” stems from their “nature which acts in them according to the disposition of their organs” (73-74). Descartes explains,

> that, though there are many animals which manifest more industry than we in certain of their actions, the same animals are yet observed to show none at all in many others: so that the circumstance that they do better than we does not prove that they are endowed with mind, for it would thence follow that they possess greater reason than any of us, and could surpass us in all things; on the contrary, it rather proves that they are destitute of reason, and that it is nature which acts in them according to the distortion of their organs: thus it is seen, that a clock composed only in wheels and weights can number the hours and measure time more exactly than we with all our skin. (74)

The reduction of non-human animals to a machine has had significant implications on the valuation of animals. For example, the practice of vivisection in early biological research that

performed public dissections of live animals. Descartes defended vivisections because "animals do not suffer and [asserted] that their cries meant nothing more than the creaking of a wheel" (qtd. in Capra 115). Therefore, the privileging of the mind over the body is not only detrimental to the social and political landscape of the West but also to the natural world. The oppositional logic central to the Cartesian paradigm creates, in Pfeifer's words, "a hierarchal system of domination of less powerful groups in society" that is harmful to everyone but the European man (528). "Irrational" animals continue to be excluded from accessing rights and are often treated in horrific and inhumane ways. For example, animals are killed, injured, and denied freedom by the fur and meat industries, to name a few of many examples.

Similarly, Descartes' argument that man should rule and possess nature has resulted in extreme exploitation of the natural world (78). Capra explains that to Descartes, "the material universe was a machine and nothing but a machine. There was no purpose, life, or spirituality in matter" (60). Modern society, and Western civilization in particular, has contributed to the climate crisis by exploiting natural resources. The Anthropocene, a term used to "denote the current interval of time, one dominated by human activity," has significantly altered the Earth's landscape, atmosphere and climate (Zalasiewicz et al. 2228-2229). The destruction of land through factory farming and industrialization as well as the perpetual burning of fossil fuels has contributed to the climate crisis ("Causes of Climate Change"). As a result, the oppositional nature of the Cartesian paradigm, on which much of Western society is based, has cultivated an imbalanced relationship between man and nature. This imbalance has resulted in the negation of the impact that human civilization has on the natural world, and subsequently, all of the non-human life that shares it. Furthermore, the climate crisis, driven by the domination of human exploitation, disproportionately affects the global south.

For example, in "Africa: Environmental Conflicts in a War-Torn Land," John Wennersten and Denise Robbins illustrate how Africa will be disproportionately impacted by climate change. According to the United Nations Environmental Programme, "no continent will be struck by the impacts of climate change as Africa," resulting in significant consequences for African communities (qtd. in Wennersten and Robbins 130). The impact of climate change on the continent's access to water, food, and other essential resources will result in a new sense of vulnerability, ultimately leading to increased numbers of refugees, and civil unrest, due to famine caused by drought (133). Despite historically high pollution from the United States and Europe,

the climate crisis will have a disproportionate impact on the global south, particularly on nations with fewer resources available to counteract the effects of rising temperatures (Popovich and Plumer). The hierarchical relationship between human civilization and nature, therefore, not only results in a negation of the natural world but contributes to the subjugation of non-Western countries.

Conclusion

This chapter attempts to outline a selective genealogy of rights that focuses on the social, cultural, and political context from which the individual and early theories of human rights emerged. To demonstrate the dualistic logic that underpins contemporary rights theory, this chapter aims to highlight the violent and inegalitarian history of human rights. The contribution that early theorists made to the rights and protections afforded to many in the twenty-first century cannot be discounted. However, it is necessary to acknowledge the colonial context from which these rights emerged. The dualistic logic that justified Western authority over non-Western populations continues to cause harm to non-Western communities globally. Samson agrees that "states which administer human rights are represented by institutions and personnel that embraced ideas affirming the inferior status of indigenous and enslaved peoples" (6). Therefore, "the official treatment of particular populations is linked to colonial domination and its enduring social, political and economic expressions" (6). Most importantly, "because states are dedicated to the perpetuation of hegemony," particularly in the non-Western world, "neither they nor the official human rights they oversee can hold great potential for social change" (6).

Chapter Two
Rights Violations in the US response to 9/11

The Western concept of democracy, often portrayed by Western nations as the crowning achievement of the civilized world, supports egalitarian access to freedom and respect of rights. Human rights, according to the United Nations, are "inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status" and include "the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education" ("Human Rights"). The issue with rights theory, as a modern and Western development, is the oppositional logic on which it is based. This logic, based as it is on dualistic oppositions that privilege the higher over the lower term (mind/body, man/woman, same/other), ensures that violence is always at work. In the context of rights, this violence results in an inegalitarian distribution of rights by privileging Western white male access to justice and rights at the detriment of others.

The United States of America, in particular, as the self-proclaimed "land of the free," is founded on the ideals of democracy that grant equal access to freedom, rights, and opportunity. Following the end of the Cold War, the United States positioned itself as the defender of democracy and the leader of the Western world. However, following an attack by al Qaeda on September 11, 2001, the United States was clear in its intention to defy international law as it pertains to human rights in order to attain justice for the American people. The selective nature by which the US, and its allies, adheres to international law exemplifies the double standard in regards to respecting the United Nations Charter: "exemption for the powerful; enforcement for the weak" (Falk 8). The exemption of powerful nations from adhering to international legal frameworks gravely undermines egalitarian access to justice and rights globally, which the US and other Western nations maintain that human rights provide.

Addressing Congress and the American people in the weeks that followed 9/11, President George W. Bush suggested that al Qaeda targeted the United States for their attack because "they hate what we see right here in this chamber—a democratically elected government […] They hate our freedoms—our freedom of religion, our freedom of speech, our freedom to vote and assemble and disagree with each other" ("The White House"). The Bush administration framed the perpetrators of 9/11 as the enemies of democracy and proclaimed to Americans that "whether

we bring our enemies to justice, or bring justice to our enemies, justice will be done" ("The White House"). In the same address, President Bush declared a global war on terror in response to 9/11, thereby defying international law, and thus democratic law.

The attacks on September 11, 2001, and the subsequent 2003 US invasion of Iraq are two significant events that act as case studies for the central argument of this thesis: that Western rights theory falls short in providing access to rights and justice, especially for non-Western others. The Bush administration's war on terror provides important insight into the suspension of the rights of others, as it exemplifies how the US can uphold and suspend individual rights in the name of national security. The selective adherence to international law and human rights conventions undermines the Western promise of indiscriminate equal rights. An analysis, informed by Jacques Derrida's concept of autoimmunity, illustrates the internal conflicts that are inherent in Western logic, particularly as it pertains to the concepts of democracy, sovereignty, and rights. For the United States to uphold democracy, it must destroy it in an autoimmune fashion by acting in undemocratic ways in the name of self-defense. Furthermore, this chapter analyzes the important implications that US-sponsored torture and unjust detainment practices used in military prison camps in Abu Ghraib and Guantánamo Bay have on the application of rights theory. Elisabeth Weber's analysis of United States military tactics, such as enhanced interrogation and indefinite detainment, is informed by the necessity of compassion for others. When compassion is stifled, no meaningful change can be made to ensure a universal application of human rights.

The purpose of this chapter is to present evidence from post-September 11 America that supports the argument that the current framework of human rights, and the institutions constructed to protect them, are insufficient in ensuring equal access to rights. The analysis that follows illustrates how the war on terror exemplifies the limitations of current rights theory. The Western powers that championed democracy and human rights, through the development of the Universal Declaration of Human Rights and International Humanitarian Law post-World War II, developed a logic that privileges and protects its interests and those of its allies. This chapter aims to illustrate how the hierarchical relationship established between the West and East, informed by the dualistic foundation of Western thought, results in inegalitarian access to rights and justice worldwide.

September 11

On September 11, 2001, commercial airplanes were hijacked mid-flight and flown as guided missiles into politically and symbolically significant buildings in the United States of America. According to the Washington Post, the media coverage of planes crashing into the World Trade Center's Twin Towers in New York City and The Pentagon in Virginia were broadcast to at least 80 million Americans ("Washington Post"). The Bush administration quickly identified the nineteen hijackers, connecting them to al Qaeda—an Islamist jihadist organization. As national and international media coverage continued, the anxiety surrounding US vulnerability developed into "heightened racial hysteria" (Butler *Precarious Life* 39). Judith Butler describes the response to the newly realized permeability of the American border as "a radical desire for security, a shoring-up of the borders against what is perceived as alien" (39). Following the identification of the perpetrators of 9/11 as a group of Arab men, there was a "heightened surveillance of Arab peoples and anyone who looks vaguely Arab in the dominant racial imaginary" (39). However, the fear that followed 9/11 had no clear source. Instead, Americans were "asked to be on guard but not told what to be on guard against; so everyone [was] free to imagine and identify the source of terror" (39). The war on terror was, in many ways, a war waged on others, due in part to the homogenous perception of the Middle East as a source of terror, and harborers of the "axis of evil." The war on terror, which continues today, in 2024, as Overseas Contingency Operations, was declared by the Bush administration to obtain justice for the American people. Today, there is no justice—only a war with no clear end in sight. This war, as a collection of military actions in response to 9/11 has instead abandoned the practices of justice through a profound assertion of sovereignty and mastery over the non-Western world (Weber 117; Butler *Precarious Life* 41).

The US Invasion of Iraq

In the years following 9/11, the United States proposed declaring war on Iraq based on the suspicion that President Saddam Hussein was allied with Islamic terrorists and had obtained weapons of mass destruction. Despite an inability to connect Saddam Hussein to al Qaeda and insufficient evidence of weapons of mass destruction, the Bush administration cited self-defense as justification for a preventative war against Iraq (Bahador et al. 6). Unable to establish evidence that proved defense against Iraq was necessary, the United Nations Security Council

opposed the war—thereby withholding its authorization that is required by international law for a nation to use force against another (Falk 29). Large-scale protests, with millions of participants across as many as 60 countries worldwide, opposed the war on Iraq as global public opinion questioned whether the invasion of Iraq was a legitimate counterterrorist mission (57). Due to the lack of public support, the US government reframed the invasion as a humanitarian effort to advance democracy, freedom and human rights in Iraq (Bahador et al. 6). On March 20, 2003, the United States invaded Iraq despite mounting protest. In Richard Falk's words, the US war on Iraq was "in violation of international law and the United Nations Charter, in defiance of world public opinion, and without a proper mandate as required by U.S. Constitution" (2).

The Iraq War, just one of many examples of the response to 9/11, exemplifies the limitations of dualistic oppositions that underpin Western rights theory. As Falk highlights, the US government demonstrates a "comforting reliance" on this dualistic logic that justifies war by pitting "'evil' terrorists" against "the 'good' political actors who wage just wars against […] criminal regimes, and their nonstate proxies, so as to have an opportunity to bring 'democracy'" (56). This justification for the use of force against another nation perpetuates the good/evil hierarchy that casts the Western world as "good" and others as "evil" and implies another hierarchy with the same function—civilized/uncivilized (56). These hierarchies, preserved from the Enlightenment, suggest that the good and civilized individual in Western nations, and their allies, are subjects entitled to rights, justice, and protection at the expense of non-Western others. Through the narrative of these prevalent hierarchies, non-Western individuals are often reduced to a homogeneous representation of inferiority. As a result, "evil" and "uncivilized" others are not afforded the same access to rights and justice as their "good" and "civilized" counterparts. It is these same hierarchies that justified the European colonial expansion and continue to underpin the notion of Western mastery over the Middle East.

The reoccurring depiction of the West in the post-9/11 era as the champion of human rights and morally superior culture perpetuates the hierarchy between the West and the East (West/East). As the lower, inferior term, the East is "cast in which non-Western states and/or cultures are cast in the role of savages, their population or segments of their populations (often women) are cast as victims, and Western liberal states and institutions take on the role of saviors" (Mutua qtd. in Mokhtari 10). Due, in part, to the privilege afforded to the higher term, human rights and international law violations perpetrated by the West are often "invisible or

easily dismissible as mere aberrations," while similar violations by non-Western nations are "ever-present and highly visible, often through demonizing, sensationalist, and decontextualized accounts" (Mokhtari 11). This image of the East is often constructed by the West to justify extreme military and economic interventions and thus justifies violating the rights of non-Western communities to save them from their "backward cultures" (11). As a result, despite championing a framework for human rights that are "inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status," the United States perpetuates a dichotomy that suggests that non-Western individuals are not entitled to the same standard of rights and justice as their Western counterparts.

The Autoimmunity of Western Democracy

Derrida's concept of deconstruction and his analysis of the relationship between sovereignty and democracy offer insight into the limitations of rights theory. The term "deconstruction," developed by Derrida in the mid-1960s, is primarily concerned with questioning, and critiquing, the Western philosophical tradition; more specifically, the oppositional assumptions that underpin Western culture. Derrida's work calls attention to the oppositional logic of Western philosophy, and importantly for this thesis, the modern Western logic of rights. In part, as Derrida notes, the Cartesian mind/body, man/woman, man/animal, man/nature dualistic oppositions privilege the higher over the lower term, granting rationality and power only to the male—a heritage that continues to prevail. Descartes' principles, which privilege the mind over the body, grant the rational male mastery over the natural world. As the concept of rights developed in the West, it was informed by the logic of intrinsically violent oppositions that justified colonial and hegemonic violence from the Enlightenment onward. Due to the inherent mastery embedded in the dualistic logic of Western rights, it is limited in its ability to extend rights to those the West has exerted social, political, and economic mastery for centuries.

The war on terror and the invasion of Iraq, in response to September 11, provides a recent example of Western mastery that disregards the rights of non-Western sovereigns and individuals. The Iraq War was defined by the denouncing of "rogue states," a term used to refer

to states that do not comply with international law (Derrida *Rogues* 95).[2] As Derrida emphasizes in *Rogues: Two Essays on Reason* (2005), the issue with the United States denouncing, and thus declaring war on the so-called rogue state of Iraq is that "a rogue state is basically whomever the United States says it is" (Litwak qtd. in Derrida 96). Furthermore, the US as a global leader, not only determines and denounces rogue states, but justifies behaving as a rogue state itself to protect its vital interests. In Derrida's words,

> The first and most violent of rogue states are those that have ignored and continue to violate the very international law they claim to champion, the law in whose name they speak in whose name they go to war against so-called rogue states each time their interests so dictate. The name of these states? The United States. (Derrida *Rogues* 96)

There are many examples of the United States behaving like the rogue state that it denounces, particularly through its military operations. Iraq, for example, was declared a rogue state by the US in 1998 and was subsequently bombed so violently that Derrida suggests "fall[s] nowise short of those associated with what is called 'September 11'" (97). Despite the condemnation of rogue states for not complying with international law, powerful Western nations frequently defy it themselves, especially because international law can only be enforced by the United Nations Security Council.

Derrida attributes the limitation of international law, and thus democracy and rights, to the ultimate power of sovereignty held by the Security Council "with its veto power" and the "power to make binding and enforceable decisions, that wields all the force of effective sovereignty" (*Rogues* 98). The binding power of the Security Council, led by five permanent members including the United States, China, France, Russia, and the United Kingdom, has significant implications for the global protection and distribution of rights because the council, alone, has the power to enforce legally binding resolutions with other sovereignties. According to Derrida, the democratic nature of international law is, in part, contradictory to the sovereignty of the Security Council because the force of sovereignty, intended to "represent and protect this

[2] International law, developed by the United Nations General Assembly, includes hundreds of internationally binding treaties that define the standards for human rights, disarmament, environmental protections and so on. Most importantly, international law includes Human Rights Law and International Humanitarian Law.

world democracy," instead "betrays and threatens it from the very outset" (100). As Derrida writes, "the states that are able […] to make war on rogue states are themselves, in their most legitimate sovereignty, rogue states abusing their power. As soon as there is sovereignty, there is abuse of power and a rogue state […] It can tend only toward hegemony" (102). This contradiction is supported by the tendency for Security Council outcomes to serve the interest of Western nations. The United States, according to the Security Council Report, in recent years has used its veto to protect the interests of Israel—blocking the admission of Palestine as a member in the United Nations as recently as April 2024 ("The Veto"; UNSC). Therefore, as Derrida suggests, the absolute sovereignty of the Security Council tends toward hegemony as its most powerful members serve their interests and the interests of their allies. The sovereign's ability to abuse its power, by suspending and upholding rights whenever it so chooses illustrates further the undeniable contradiction between the sovereign and the democracy, as outlined by Derrida. Through the abuse of power, sovereigns undermine the democratic tenets they claim to protect, including equality, human rights, and the rule of law. The betrayal of democracy by the sovereign occurs in what Derrida calls an "autoimmune fashion" (*Rogues* 99).

Derrida's concept of autoimmunity is pertinent to the central argument of this thesis because it identifies the dualism built into systems that claim to protect human rights. For example, Derrida suggests that there is an autoimmune nature inherent in the Western concepts of democracy and sovereignty, both of which are political concepts intended to defend the rights of citizens. The autoimmune, for Derrida, refers to a process that is "charged with more than internal contradiction and undecidability, that is, an internal-external nondialectizable antinomy" (*Rogues* 35). The antinomy inherent in the Western concepts of democracy and sovereignty result in an autoimmune process that violates the democratic tenets as a way to "immunize itself, to protect itself against the aggressor" (35). More simply, democracy must destroy itself by resorting to the abuse of force to protect itself from destruction by the enemy of democracy. Similarly, sovereignty perverts itself as the protector of democracy, and thus the rights and justice it promises, by simultaneously acting as, what Derrida calls, the beast—the suspender and violator of rights (qtd. in Wills "Drone Penalty" 179). As a result, Derrida's critique of the framework of Western rights rests on the contradictory relationship between democracy and the sovereign. While the sovereign should act within the confines of democracy and international law, the absolute power of the sovereign cannot be controlled by democratic institutions,

including the United Nations. As a result, the autoimmune process inherent in democracy and sovereign ensures that the sovereigns inevitable abuse of power cannot be prevented the tenets of democracy (*Rogues* 87).

The autoimmune process is also helpful in analyzing the events of 9/11. Derrida describes the autoimmune process as a "quasi-*suicidal*" process through which the body "itself" works to destroy its own protection to immunize itself against its "own" immunity (Derrida "Autoimmunity" 94). By interpreting 9/11 and the response that followed as an autoimmune process, Derrida provides profound insight into the limitations of rights theory. In the context of September 11, Derrida identifies three symptoms of autoimmunity. The first symptom is the double suicide of the event, represented by the suicide of the perpetrators of the attack and those that "welcomed, armed and trained them" (95). Here, Derrida recalls that it was the United States that trained and funded "terrorists" to protect Western interests against the Soviet Union during the Cold War—technology and training which was then used against them (95). As a result, 9/11 represented an autoimmunitary process because the attack came from within the political body of the US and because American intelligence and training were used against itself.

Secondly, the traumatic recognition of the penetrability of US borders and the terror that an even more violent attack may be forthcoming significantly altered the sense of vulnerability of the American people. This sudden vulnerability and the desperate attempts to "deny, repress, or forget it" resulted in an autoimmune response, by which the body "produces, invents and feeds the very monstrosity they claim to overcome" (Derrida "Autoimmunity" 99). In other words, to mask vulnerability by declaring a global war on terror works to reproduce, in an autoimmune fashion, the terror one seeks to destroy. W.J.T. Mitchell describes the reproduction, or "cloning" or terrorism that occurred through the war on terror as "pouring gasoline on a fire," or, in keeping with Derrida's biopolitical analogy, "like massive, unfocused doses of radiation or invasive surgical interventions, overreactive 'treatments' that fail to discriminate the body from its attackers or that even stimulate the proliferation of pathogens" (48-49). Simply put, retribution sought through war, torture, and drone warfare is an example of autoimmunity because it reprises the "terrorist" by damaging international perceptions of the United States while, at the same time, undermining Western democracy and rights, of which the US claims to be the founder and protector.

Finally, the war on terror, according to Derrida, “regenerates, in the short or long term, the causes of evil they claim to eradicate” (Derrida "Autoimmunity" 100). Here, Derrida suggests, as many others have done, that the continued acts of “counterterrorism” that unjustly kills hundreds of thousands of civilians across the Middle East provides legitimate grounds for the reprisals of attacks against Western powers; their own counterterrorism. Grégoire Chamayou notes that even the US military handbook acknowledges the consequences of aggressive military action such as counterterrorism. According to Chamayou, the US military handbook states that “confrontational military action, in exclusion, is counterproductive in most cases; it risks generating popular resentment, creating martyrs that motivate new recruits [to terrorist organizations], and producing cycles of revenge” (70).

According to Derrida, autoimmunity is “the most irreducible source of absolute terror, the one that, by definition, finds itself most defenseless before the worst threat would be the one that comes from ‘within,’ from this zone where the worst ‘outside’ lives with or within ‘me’” (Derrida "Autoimmunity" 188n7). Autoimmunity thus suggests that the subject is compromised by its worst threat, which comes from within itself. This description of autoimmunity seems to highlight the intrinsically self-destructive nature of the autoimmune, as the subject is attacked by the same threat it tries to protect itself from. Democracy, as the guarantor of freedom, justice and rights, and champion of international law, undoubtedly exemplifies an autoimmune process, as Derrida suggests. While democracy may very well be threatened by nameless and faceless forces who seek to attack Western democratic freedom and publicly respond to Western imperialism in the Middle East, the worst threat to democracy is the way it violates its own principles for self-preservation.

The autoimmune nature of Western democracy illustrates how 9/11 and the US government’s response to the attacks exemplify the central issue of current rights theory. The United States was, as Derrida outlines, attacked from within its political body by American training and technology. However, it is the US response to this attack that demonstrates the autoimmunity of 9/11—the global war on terror. The war on terror defied international law, including Human Rights Law and International Humanitarian Law, thereby revealing the limitations of Western rights to offer universal protections. For example, the war on terror resulted in various US government agencies suspending the rights of any person suspected of, or associated with, terrorist activities. Furthermore, the United States government and military

disregarded the rights of hundreds of thousands of civilians in Iraq and elsewhere through indiscriminate attacks, including drone strikes. Ultimately, when the United States sought justice by any means necessary, it violated its democracy which was founded on the logic of rights. By contradicting the rights theory it has sworn to uphold and protect, the US response to 9/11 was an attack on itself; on its own political body which is governed by rights, and thus undermined its role as the "the ultimate presumed unity of force and law" (Derrida "Autoimmunity" 95). As a result, the United States became the terror it sought to destroy as it reproduced the terror and trauma experienced on 9/11.

Elisabeth Weber seems to support Derrida's interpretation of autoimmunity, including how the autoimmunity of democracy impacts the application of rights for non-Western others. Citing Fethi Benslama's work, Weber illustrates how the forceful installation of modern, democratic ideals in the Islamic world led to social and political tensions with the West from the Enlightenment onward. Negative attitudes toward the West may have begun when European ideas of modernity were introduced to Muslim countries through violence and oppression and were further compounded by the importation of Western capitalism, which advanced the interests of the upper class and abandoned the majority of the Islamic population to fend for themselves (194). The oppression and exploitation many Muslims experienced at the hands of Western powers resulted in a power struggle against Western mastery, particularly on the part of Muslims who "consider[ed] themselves the victims of successive foreign masters," and had long suffered under dictators that remained in power in part due to Western complicity (National Commission 49; Weber 195). Western interventions in the Middle East perpetuated a hierarchical relationship between the West and others, particularly those subjected to Western colonialism and imperialism. To install democracy in the Middle East in particular, the Western world exerted mastery over the East through imperialism, which undermined the principles of democracy. By installing democracy through force and violence, the tenets of democracy, such as the protection of rights, were invalidated.

In part, the long history of Western intervention in Middle Eastern affairs contributed to the approval won by Osama Bin Laden, the leader of al Qaeda, when he singled out the United States for an attack. Many Muslims shared Bin Laden's disapproval of Western hegemony in Middle Eastern countries and thus approved of his platform that was based on grievances against the United States—including US military presence in Saudi Arabia and their finance and

political support of the Israeli state (National Commission 47-49). While these grievances describe Bin Laden's platform before 9/11, it is useful in understanding how autoimmunity works to produce the grounds from which terrorism grows by legitimizing the cause for resistance against mastery. For example, according to "The 9/11 Commission Report," published by the US National Commission on Terrorist Attacks Upon the United States, Bin Laden and al Qaeda claim to have attacked America because America had attacked Islam through oppressive interventions (51). This sentiment provides yet another example of how Western political and military interventions may result in negative views of the West and result in further violence. Mitchell considers this point when he notes that al Qaeda was not in Iraq when the United States invaded, despite claims that Saddam Hussein was harbouring Islamic terrorists. However, the invasion "transformed Iraq from an ordinary belligerent military dictatorship […] into a fertile breeding ground for nationalist insurgency and international terrorism" (xiii).

The Violation of Rights in US Military Black Sites

International law has attempted to protect all human beings from the atrocities that occurred during World War II by writing human rights into law. The Universal Declaration of Human Rights (UDHR), a milestone document put forth during the 1948 United Nations General Assembly, was drafted by collaborating members in several countries, including the United States of America ("Drafters of the Declaration"). As the foundation for international human rights law, the UDHR sets a standard of achievement for all nations to protect global citizens from the violence that occurs when human rights are disregarded ("The Foundation"). To achieve this standard, the United Nations requires all member states to protect the rights of all human beings including, but not limited to, the right to dignity, liberty, security and freedom from torture, cruelty, and slavery ("United Nations"). According to the UDHR, the advent of human rights has contributed to a world where human beings "shall enjoy freedom of speech and belief and freedom from fear," which has been "proclaimed as the highest aspiration of the common people" ("United Nations"). However, a significant transformation of international law is necessary to ensure that rights are extended to all and that violations of international law are met with consequences. Under the UDHR, all human beings have the right to be free from the violence of torture and inhuman treatment. Furthermore, the United Nations Convention Against

Torture condemns and prohibits torture under the highest order of international law while the Geneva Conventions prohibit torture during armed conflict. Despite the many conventions and international laws that universally prohibit the torture and inhumane treatment of individuals, these regulations prove to be limited in their ability to keep powerful sovereign nations from using these violent tactics.

As a milestone document of International Humanitarian Law, the Geneva Conventions establish a comprehensive set of protocols to ensure that victims of armed conflicts are treated humanely. According to the Geneva Conventions, all persons who are not partaking in hostilities, regardless of their race, colour, religion, sex, wealth, or birth should be treated humanely. This convention strictly prohibits any humiliating or degrading treatment, the taking of hostages, and violence, including torture, mutilation, and cruel treatment. It also maintains that no sentences should be passed, or executions carried out, without "affording all judicial guarantees which are recognized as indispensable by civilized peoples" ("Geneva Conventions" 170). Furthermore, any internment camps set up during violent conflicts should ensure that the hygiene and health of the detained are safeguarded by maintaining dry, warm and well-lit housing (197). These details, along with many others listed in the conventions, are intended to protect civilians as well as internees who are being held without the intention of being charged or tried by the detaining power. The Treatment of Prisoners of War (1929) outlines similar protocols for the humane treatment for prisoners of war, including protection from violence and insults. Furthermore, as with civilians, prisoners of war should be treated with respect as well as provided adequate food, hygiene, and clothing. However, as is exemplified by the torture and other inhumane practices perpetrated in US military prisons across the world, including Abu Ghraib and Guantánamo Bay, violations of international human rights law are rarely met with consequences, and thus cannot be adequately upheld. As a result, access to individual rights and justice is systematically restricted for those detained by the US military.

Following the invasion of Iraq, shocking images depicting American soldiers torturing, humiliating and sexually abusing Iraqi detainees in Abu Ghraib prison were leaked to CBS. On April 28, 2004, the gruesome images were aired and, soon, they became a symbol of the war crimes committed during the war on terror (Smeulers and van Niekerk 327-28). One image became internationally infamous; frequently called the Hooded Man, the image depicts a hooded Iraqi prisoner balancing on a box with arms outstretched and attached to wires he is told will

electrocute him if he falls off the box. The image remains an iconic symbol of the torture perpetrated by the world's greatest democracy. As the abuse at Abu Ghraib became public, it became clear to the world that the US military was violating international law, despite claims that the invasion of Iraq was intended to bring democracy, rights, and justice to the region.

While the photos that circulated depicted several US military police and military intelligence personnel posing beside detainees that have been forced into painful and degrading positions, it is clear that the inhumane treatment of prisoners in Abu Ghraib was long known by as many as a hundred military intelligence soldiers and officers (Danner 27). As many scholars have noted, the atrocities that shocked the world in 2004 were not new practices. While President Bush characterized the abuse of Iraqi prisoners as an isolated incident within the military, there is sufficient evidence that torture practices are not the result of "a few bad apples" (20, 27). Many enhanced interrogation methods were exported to Abu Ghraib from Guantánamo Bay prison in Cuba, which opened in 2002 to detain suspected terrorists. Prisoner testimonies describe similar torture methods used in Abu Ghraib, including sexual abuse and humiliation. The use of methods like sensory deprivation through hooding, humiliation through nudity and sexually explicit acts, and stress positions that require prisoners to squat or stand in version positions for extended periods are recorded in both prisons and are reportedly used at other secret US military prisoners across the globe. Moreover, prisoners in Guantánamo Bay and Abu Ghraib were kept in inhumane living conditions as prisoners; another violation of international law.

The atrocities committed in Abu Ghraib serve as a reminder that international law is not enough to ensure the universal protection of human rights. Despite documentation of practices such as hooding, stress positions, humiliation, disorientation, and sleep deprivation, that violate both international law and interrogation procedures, only the seven military police visible in the Abu Ghraib photos have been charged for their participation in the crimes (Danner 27). Many of the specifications outlined in the Geneva Conventions that are intended to ensure humane treatment of civilians, internees, and prisoners of war alike are violated by common US military practices. Furthermore, despite the absolute prohibition of torture outlined in the 1948 UN Convention on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Ariel Dorfman observes that "we live in a world where torture is practiced on a regular basis in more countries than ever—132 at the latest count, but who knows if there are more" (qtd. in Weber 81). This number suggests that disregard of International Humanitarian Law remains common

practice and is perpetrated by many countries, including the United States. One explanation for the blatant disregard of international law is that there is often no way for international institutions, like the United Nations, to enforce international law.

As noted above, the United Nations Security Council has the power to make binding and enforceable decisions that "all Member States [of the UN] are obligated to comply with" ("Security Council"). The power of the Security Council is controlled primarily by its permanent members, the United States, France, Russia, China and the United Kingdom, which can veto a UN resolution at any time. It is important to acknowledge that the absolute sovereignty of the Security Council—and the predominantly Western control of the one council that can impact the enforceability of international law—results in a United Nations that is informed by the hierarchical oppositions of Western philosophical thought. Due, in part, to the power imbalance present in the Security Council that favours Western interests, international law can rarely be enforced by the UN and as a result, little to no accountability or consequences come from the flagrant violations of these laws. In other words, despite a multitude of international laws to protect human rights, it is nearly impossible for these laws to be enforced and, as a result, many groups of people are not adequately protected by international human rights law. Mitchell notes the lack of consequences for human rights violations, particularly those perpetrated by Western nations, by pointing out that "in a world where the notion of human rights and international justice had any force of law, the United State's actions in Iraq would be condemned as those of a rogue state placing itself above the law" (108). The lack of consequences for the Bush administration and the US military following the invasion of Iraq, and the Abu Ghraib scandal, exemplifies the double standard present in the application of international law. Western nations that selectively adhere to international law are rarely met with the same consequences as their non-Western counterparts. Not only does this double standard uphold Western superiority but when global superpowers and members of the Security Council, such as the US, can violate the human rights and international law with no consequences, a global precedent is set for noncompliance with international law—a precedent that contributes to the erosion of human rights.

Indefinite detainment, erasure of legal status and detainment without criminal charges are a few of the most blatant violations of the individual rights of prisoners in US black sites. Since Guantánamo Bay was established, 780 men have been imprisoned, however, only nine have ever

been charged with a crime. As a result, "the constitutional right to know and challenge the reason for one's imprisonment," a right that is also protected by the Geneva Convention, "has thus been violated systematically" since Guantánamo Bay was established in 2002 (Weber 140). The detainees, who are suspected of involvement with terrorist organizations, are held for indefinite amounts of time as a result of the authorization issued by President Bush in 2001. Not only does this military order defy their right to challenge their imprisonment but it also strips all detainees of their legal rights as it "erases the legal status of the individual, thus producing a legally unnamable and unclassifiable being" (Agamben qtd. in Weber 126). Here, Weber argues that any attempt by the US government to respond to 9/11 through legal action was founded on the notion "of curtailing the civil rights in the United States" by restricting terrorist suspects from accessing the justice system (199-120). Furthermore, official documentation linked to the abuses in Abu Ghraib prison contained evidence of US officials debating whether the Geneva Conventions "should be extended to al-Qaeda and Taliban prisoners in Afghanistan" (Danner ix-x). Despite repeated violations of international law, the United States maintains the power to authorize the suspension of the individual rights of prisoners, which are protected by the Geneva Conventions, the American Constitution, and many other international humanitarian laws. The abuse of power by the defender of democracy is clear here, as the United States suspends the rights and protections that prisoners are entitled to by changing their status to "unlawful combatants;" thus excluding them from the Geneva Conventions and removing any possibility of justice (Danner 12).

Weber's *Kill Boxes: Facing the Legacy of US Sponsored Torture, Indefinite Detention and Drone Warfare* (2017) calls attention to many of the human rights violations committed during the war on terror. The humanistic approach to Weber's work is particularly important to this discussion because the humanity of others is often lost in the context of war, or perhaps never attributed in the first place. In this regard, Weber suggests that recognizing, "the "other's" suffering," is a major promise of the discipline of humanities (13). Weber's work provides an important voice for an analysis of the violation of international law and human rights, as well as the inherent limitations of rights.

Weber's attempt to recognize the suffering of others is rooted in Derrida's reflections on "living together" from his lecture "Avowing—The Impossible: "Returns," Repentance, and Reconciliation." Published in an anthology edited by Weber, *Living Together* (2012), Derrida

reflects on the possibility and impossibility of living together and forgiveness. For Derrida, "living together" is something we must do, and while it may be considered by some as something to come, once there is peace or reconciliation:

> another connotation of the "*bien vivre ensemble*," that of the last resort, does not wait for peace. It is that of the "one must live together well [*il fast bien vivre ensemble*]," one has no choice. It is indeed, always a matter of a necessity, and therefore of a law: one cannot not "live together" even if one does not know how or with whom, with God, with gods, men, animals, with his own, with one's close ones, neighbors, family, or friends, with one's fellow citizens or countrymen, but also with the most distant strangers, with one's enemies, with oneself, with one's contemporaries, with those who are no longer so or will never be so. (Derrida "Avowing" 23-24)

I quote Derrida at length here because the importance of "living together" with loved ones, strangers, and enemies alike, a fundamental mode of which Derrida suggests is compassion, underpins much of Weber's work as the humanistic approach to recognizing others as well as the trauma, injustice and human rights violations they face. The goal of this approach is to emphasize that, to evoke change, a "shift in awareness," particularly in the "public space and discourse in the US," toward compassion and responsibility is necessary (Weber 39).

Weber acknowledges how stealth torture, developed by the CIA and disguised as "enhanced interrogation," stifles the possibility of compassion from both the perpetrator's community and the victim's community (79). Stealth torture, like modern methods developed by the CIA and used in Abu Ghraib and Guantánamo, is more difficult to monitor. Darius Rejali explains the difference between stealth methods and classic methods of torture:

> Classical torturers marked their victims' bodies as religion or custom required. They often branded or scarred in public, using bodies to advertise state power and deter others from similar behavior. By contrast, modern torturers favor pains that intimidate the prisoner alone. At times, they reach farther than mere behavioral compliance, seeking to apply physical pain in order to touch the mind or warp a sense of self, and thereby shape the self-understandings

> of prisoners and dispose them to willing, compliant action. Modern torturers may leave scars as they pursue these aims, but these tend to be incidental. (Rejali 35)

These methods, like stress positions or humiliation, leave the victim with invisible scars that are perhaps even more difficult to live with than physical ones. Weber, citing Jean Améry, suggests that the victim's trust in the world is broken when they are faced with the realization that there is such absolute sovereignty that may use its power to inflict violence and torture on others (54). Those who survive torture carry a shame that prevents them from connecting with the world like they once did and are thus deprived of compassion (Weber 57). These methods of torture, intended to dehumanize the victim, effectively annihilate the individual by destroying a part of their identity as well as their connection to their communities. They also more easily evade the watchful eye of human rights organizations and reduce the possibility of public perceptions that would result in compassion for victims and activism that would challenge the interests of Western hegemony (Rejali 35; Weber 79).

Similarly, Weber's analysis of the censorship of poems written in Guantánamo Bay indicates the United States' attempt to suppress compassion for the prisoners. Weber, after noting that almost all the poets in Guantánamo Bay have been tortured, suggests that torture and censorship are two methods of suppressing the language of the victim (129). Torture, by shaming and humiliating the victim to the point that they are virtually excluded from their community, "pursues the undoing of a subject endowed with language through his or her reduction to howling flesh" (Améry qtd. in Weber 130). Literary censorship, on the other hand, further disconnects the victim from the language that situates them in their community, and "[robs] them of a language with which to articulate his or her victimization" (Felman qtd. in Weber 135). Richard Falk suggests in the afterward to *Kill Boxes* that the reluctance to allow uncensored poetry to reach the world outside of Guantánamo may also be out of the unwillingness to "give these prisoners an opportunity to bear witness to their sufferings […] which would undermine security by 'humanizing' terrorists that need to be thought of as 'the worst of the worst' to sustain homeland morale" (Weber 241). In other words, if the American public perceives detainees as human, who are equally endowed with the rights, justice, and compassion promised by their democratic constitution, it could result in protest against the maltreatment of detainees, and thus undermine the war on terror.

Considering Derrida's concept of autoimmunity and Weber's analysis of torture and indefinite detention in tandem suggests that the atrocities that occurred in both Abu Ghraib and Guantánamo Bay prisons can be redescribed as autoimmune process. The violation of International Humanitarian Law by the United States illustrates the contradictory nature that defines the autoimmune. By authorizing the torture and detainment of terrorism suspects, the United States attempted to immunize itself by protecting its borders from the enemies of democracy. However, the infringement of the rights of prisoners through indefinite detainment, suspension of legal status, and the inability to contest charges or stand trial (not to mention the inhumane treatment), follows Derrida's logic that democracy "immunizes itself against its 'own' immunity" by suspending the protections that the US claims to be defending (Derrida "Autoimmunity" 94). Ultimately, Abu Ghraib and Guantánamo Bay demonstrates how the autoimmune process effectively produces the terror it claims to eradicate and regenerates the cause of evil by further subjugating non-Western others.

Conclusion

This chapter attempts to illustrate how the war on terror exemplifies the oppositional logic that underpins Western rights theory and the institutions built to protect it. The events analyzed above portray a system of rights that is limited in its enforceability as well as its distribution. The United States, for the purpose of this thesis, presents one of many examples of the perpetuation of Western mastery by operating within the framework of violent hierarchies while defying the limits of international law. Derrida and Weber, in their respective works, call for a radical shift in international law and its institutions and demand that the public confront the legacy of their country's transgressions. Derrida directs this call, more specifically, to philosophers:

> […] philosophers those who, in the future, reflect in a responsible fashion on these questions and demand accountability from those in charge of public discourse, those responsible for the language and institutions of international law. A "philosopher" (actually I would prefer to say "philosopher-deconstructor") would be someone who analyzes and then draws the practical and effective consequences of the relationship between our philosophical heritage and the structure of the still dominant juridico-political system that is so clearly undergoing mutation. (Derrida "Autoimmunity" 106)

To own up to this heritage it is necessary to hold Western sovereigns accountable for their violations of human rights and ensure that these rights are equally accessible for all global citizens.

Chapter Three
Drone Warfare and the Crisis of International Law

Since September 11, 2001, drone technology has been used increasingly by the United States to carry out counterterrorism missions. Drones, or "unmanned aerial vehicles (UAV)," are utilized by many countries as weapons of war to surveil, target and kill the enemy from a distance (Chamayou 11). The United States offers one of many examples of the impact that the normalization of drone warfare has on the global community. US drone practices and policies, as developed in recent decades, mark a notable shift in the framework of contemporary surveillance and warfare. The replacement of soldiers by drone technology has been challenged by several theorists, such as David Wills and Grégoire Chamayou, whose extensive work on the legal and ethical implications of drones as weapons of war significantly informs my analysis in this chapter.

In what follows, after a brief overview of the rapid expansion of drone warfare by the United States, I present an analysis of the legal and ethical concerns that Wills and Chamayou highlight in their respective works, outlining how both theorists challenge the use of drones as weapons of war. The US practice of drone warfare in recent decades offers further insight into the limitations of Western rights theory. Relative to this, both theorists contribute significantly to the purpose of this chapter, which is to address and question the connection between drone practices and contemporary rights theory. More specifically, this chapter seeks to demonstrate how US drone practices support the thesis that rights, as a Western concept, are limited in their application to non-Western populations. Building on the analysis presented in Chapter Two, I consider the perpetuation of binary oppositions that underpin Western rights and the impact these oppositions have on access to rights and justice.

A Brief History of the Drone

Drones have many potential uses in today's technologically driven society. While drones are often armed and used by military forces, standard versions are regularly used by humanitarian organizations, corporations, and civilians for a variety of purposes. By the end of 2024, commercial drones will be delivering packages, while recreational drones will be used primarily for the "fun of flying" (Streitfeld; "Public Opinion"). Moreover, humanitarian drones transport

medical supplies in rural areas, fight wildfires, and quickly assess disaster zones (Stanley). While the ethical and legal implications of drones will be analyzed in coming pages, it is important to remember, as Sarah Stanley at The Borgen Project—a non-profit organization campaigning to minimize global poverty and utilizing drone technology to do so—reminds us, that "technology is neither inherently good or bad." Rather, the way that technology is used should be questioned (Stanley). While drones have a variety of uses, this thesis is concerned with the use of drones as weapons of war, particularly when used outside of conventional battlefields.

Today, numerous countries make use of militarized drone technology that has developed exponentially since the United States Air Force deployed reconnaissance drones during the Vietnam War. As recounted by Grégoire Chamayou, the US did not prioritize the development of military drones following the Vietnam War, until Israel deployed some of the first modern military drones against Egypt in 1973 and Syria in 1982 (Brown 732; Chamayou 27). Inspired by Israeli decoy drones, the United States reinvested in drone production and, by the late 1990s, deployed an early iteration of the Predator drone in Kosovo (Chamayou 27-28). However, it was not until a few months before 9/11 that the Predator would transform from a drone that functioned as "eyes, not weapons" into the missile-carrying Predator that is used today (29). The first lethal drone strikes were deployed by the United States in Afghanistan in 2001, marking a period of rapid growth in the investment in and development of unmanned aerial vehicles.

Following 9/11, the use of drones increased significantly to support US counterterrorism ("Armed Drones"). Between 2002 and 2015, the number of drones employed by the US military grew from 167 to 8,000 (Brown 732). According to a report published by Stanford Law School and NYU School of Law, *Living Under Drones: Death, Injury, and Trauma to Civilians from US Drone Practices in Pakistan,* "the US government has been using […] drones to carry out hundreds of covert missile strikes in northwest Pakistan since at least June of 2004," with upwards of four drone strikes being deployed daily (7; Chamayou 13). With over 7,000 Predator drones, the United States deployed more than 14,000 drone strikes in Afghanistan, Pakistan, Somalia, and Yemen between 2010 and 2020, alone. (International Human Rights 8; "Armed Drones"). The rapid increase in resources to support drone warfare encourages a "gradual dronization" of the US military, as some suggest that overseas troops will continue to be replaced by armed drones (Chamayou 14; "Armed Drones"). The accelerated growth of drone usage,

which exploded under the Obama administration, has contributed to the normalization of armed drones as weapons of war.

Drone technology continues to spread globally as drones are used as instruments of surveillance and lethal weapons to support warfare. As Anthony Dworkin notes, “Russia, Saudi Arabia, and Turkey are either developing or announced intention to purchase armed UAVs,” while China has already begun a drone program (3). In 2022, the United States provided military support to Ukraine that included 100 tactical drones, while days before writing this, Iran launched over 300 drones and missiles at Israel in response to Israel’s attack on the Iranian embassy in Syria (Brown 732; Al Jazeera Staff). While the development of drones has spread widely, the United States has carried out the majority of global drone strikes, especially those that occur outside of traditional battlefields (Dworkin 4; Brooks 89). As a result, the use of armed drones by the United States military marks a notable shift in the traditional understanding of warfare. For this purpose, US drone strikes, particularly in the context of the war on terror, are of major concern for this thesis.

US drone strikes are particularly troubling because they challenge predetermined notions of war and international law. Brooks notes that today the United States is the world’s only military superpower (96). As a result, the actions of the United States government contribute greatly to setting global precedent as it pertains to adherence to international law and human rights. Furthermore, as a founding member of the United Nations and a member of the Security Council, the United States is recognized as a founder and promoter of universal human rights. For this purpose, it is essential to question US drone policies and practices and assess their legal and ethical implications. As the issue pertains to rights and international law, the United States has “maximized its own ability to mobilize lethal force against terrorists” through drone policies that authorize targeted killing, by “selectively combining elements” of war and law enforcement models to justify them (Luban 221). In what David Luban calls “the hybrid war-law approach,” the United States justifies drone practices by combining elements of war that permit lethal force while simultaneously regarding targets as criminals who do not have the right to shoot back under the law model (220). Humanitarian concerns arise here, as the hybrid war-law approach “eliminat[es] most traditional rights of a military adversary, as well as the rights of innocent bystanders caught in the crossfire” (221). By blurring the lines between frameworks of war and

law enforcement, the war on terror has significant implications on international human rights, as laws on rights vary during war and peace times.

Furthermore, as the United States creates a middle ground between war and law enforcement, it personalizes concepts of self-defense and armed conflict—further blurring the lines between the applicability of international law and rights. Chamayou calls attention to these concerns by citing Laurie Blank:

> The United States, writes Laurie Blank, relies 'on both armed conflict and self-defense as legal justifications for targeted strikes outside of the zone of active combat […] It is the United States' insistence on using reference to both paradigms as justification for individual attacks and the broader program of targeted strikes that raises significant concerns for the use of international law and the protection of individuals by blurring the lines between the key parameters of the two paradigms.' (qtd. in Chamayou 266n4)

In the analysis that follows, I attempt to illustrate how the strategies employed by the US government negatively impact the application of international law, including International Humanitarian Law. Particularly, how US drone practices challenge current understandings of war and, most importantly, how reinterpretations of normative frameworks of war violate the democratic rights that the United States claims to protect. In Chapter Two, the authorization of torture and the suspension of the rights of detainees demonstrated how US military strategies violate the rights of others. Similarly, drone warfare suspends the rights of enemy combatants and civilians alike as the United States asserts mastery over the lives of others.

Drone Penalty

In *Killing Times: The Temporal Technology of the Death Penalty* (2019), David Wills traces the logic of the death penalty throughout American history and considers the evolution of the technologies of death, from the guillotine to drone technology. Most pertinent to this thesis is Wills' consideration of the implications of death penalties that fall outside the scope of the US justice system, such as drone warfare. Wills' contribution to the issue of drones as weapons of war is his careful consideration of the complexity of technology that puts someone to death and the judicial system that determines an individual's fate (Coelho). Wills' concept of the "drone

penalty"—the death penalty carried out by an unmanned aerial vehicle—illustrates how drone warfare perpetuates extrajudicial death penalties that aspire to bring enemies to justice while simultaneously contradicting the standard of justice that the US champions (Shen). The analysis of killing times, a term Wills uses as a synonym for the death penalty, demonstrates how the death penalty imposes a time of death on an individual (Shen). The imposition of the moment of death interrupts the "natural temporal flow of mortality" as the executioner asserts mastery over the time and mortality of the condemned (Wills 13).

The connection between time and capital punishment is important in the context of drone warfare because the imposition of a moment of death, whether through juridical execution or sudden assassination by a drone strike, exemplifies mastery over the lives of the targets, and innocent bystanders, of the drone. Wills' interpretation of the death penalty suggests that there is a notable difference between "a mortality that means knowing we will die one day" and "the specific circumstances of being condemned to death" (13). The passing of time leads to an inevitable death for all human beings and this reality is naturalized by the natural temporal flow of mortality. As Wills explains,

> We know there is time because we know that, at our end of it, we will die; we come to understand the passage of time, its hours and days, years and decades, as an inexorable movement toward death. From that point of view time already carries within itself a technological or prosthetic element, that of an impersonal or external machine to whose automatism we remain tethered. Time is something that we experience as already in train the moment we are born, and it is a train that we cannot escape riding until the moment we die. But as long as we do not know for how long we remain alive, as long as we presume to survive each next moment, we are able in a sense to subject time to the rhythm of our individual lives, to escape its control or outrun it—as it were, to naturalize it. (*Killing Time* 14)

The acknowledgement that mortality is fickle and that life may end at any moment is, in part, accepted by the naturalization of time because the moment of death is never certain. However, once the moment of death is imposed by a third party, the natural temporal flow of mortality is disrupted. As a result, the death penalty profoundly alters the experience of mortality

as a third party is granted "mastery over the time of life of the condemned" (Derrida qtd. in Wills 13). In Wills' words,

> Not only, therefore, is the life of one condemned to death cut short […] but the temporality of mortality also comes to be experienced in its technological force; it is as if a mechanical or technologized time were taking over that life and putting it on its own schedule in a way that could never be the case for ordinary mortals living out their days in the expectation that one of those days—yet to be revealed—will be their last. (*Killing Time* 14)

According to Wills, once a death sentence is announced "the presumption that life will continue uninterrupted until some undetermined moment—is denaturalized" (14). The disruption of the natural temporal flow of mortality illustrates a mastery over life as the executioner prematurely ends it. The relationship between time and capital punishment reveals an exertion of Western mastery over the life and death of non-Western individuals when considered in the context of post-9/11 drone warfare. The drone becomes an extension of a "god-like sovereign" that has mastery over the time of those it condemns ("Drone Penalty" 185). With the authority to execute, without warning, drone technology carries out an extrajudicial death penalty. Wills suggests, therefore, that the "drone penalty mocks the temporal relation […] by means of an absolute reduction, where the first approach to the other, the first hailing or greeting is an instantaneous death sentence" (189). Mastery over temporal technology reduces the lives of others to a target that is not afforded justice or rights, such as access to a fair trial, a known verdict, or a chance to dispute their verdict. As Weber summarizes, "the sovereign is the one who decides over life and death" and the one that decides when "national or international law no longer apply" (170-171).

As the absolute power that determines the circumstances of war and law, the concept of sovereignty is significant to the analysis of drone warfare. As an extension of its power, the drone exemplifies the nature of sovereignty as both sovereign and beast. The nature of the sovereign, explored in Derrida's *The Beast and the Sovereign,* overlaps with the concept of rogue states considered in Chapter Two of this thesis. Wills, citing Derrida, describes the rogue as "he who calls others rogues—other states or heads of state—while being himself wholly rogue in the exercise of power" ("Drone Penalty" 179). According to Derrida,

> It is the most powerful sovereign states which, making international right [or law] and bending it to their interest, propose and in fact produce limitations on the sovereignty of the weakest states […] going so far as to violate or not respect the international right [or law] they have helped institute […] all the while accusing the weaker states of not respecting international right [or law] and of being rogue states. (Derrida qtd. in Wills "Drones Penalty" 179).

Derrida's concept of rogue states outlines the connection between the sovereign as rogue and the sovereign as beast. Rogues exemplify the bestiality inherent in sovereignty, as it is "in the nature of the sovereign to be both sovereign and beast—both one who personifies the law by virtue of the power to make and suspend it, and who is by the same token an outlaw or criminal" who defies it ("Drone Penalty" 179). By manipulating the law at its will, the sovereign positions itself above the law, and thus operates outside the normative legal framework—like the beast. The drone, then, functions as the executioner for the sovereign by killing those who have been condemned to death. The drone condemns the sovereign's target even when the justification for their death is shrouded in secrecy. As a result, drones perpetuate the political interests of the sovereign by asserting profound mastery over the life of the condemned. As Elisabeth Weber points out, "the assertion of mastery and sovereignty is […] *in essence* one that acts *at a distance*" (214).

Ethics, International Law and the Issue of the Drone

Grégoire Chamayou, a philosopher specializing in modern German philosophy, the history and philosophy of medicine and political philosophy, has notably contributed to the conversation about the ethics of drone usage. Chamayou's major publication *A Theory of the Drone* (2013) contributes significantly to the theory in this thesis as it informs the ethical debate surrounding drone strikes and the implications that military drones have on rights. The central argument of *A Theory of the Drone* is that armed drones fundamentally alter the nature of warfare itself as it transforms war from face-to-face combat between equal, or possibly asymmetrical opponents, to a unilateral infliction of violence. In this regard, the concept of war transforms into hunting. Focusing primarily on the centrality of drones as a military strategy in Western nations,

especially the US war on terror, Chamayou emphasizes the importance of considering the consequences of drones as weapons of war. Particularly, the reduction of the threshold to resort to lethal force in global disputes and the reduction of human beings to targets on a screen.

As Chamayou outlines, drone technology has altered the landscape of traditional warfare and suppresses the possibility of reciprocity on which traditional war is based. Historically, there have been two opposing concepts of war that define the nature of combat. The first condemns the enemy as guilty and carries out a punishment of armed violence, through which the enemy has no right to self-defense. The opposing framework informs the existing conceptualization of the laws of war and is based on the legal equality of combatants. The founding principle that underpins existing laws is that combatants in opposing forces have an equal right to kill without criminal charges (160). It is the principle of reciprocity that grants combatants privilege to a "temporary decriminalization of homicide" under *jus in bello.* In other words, combatants are protected from criminal charges for homicide only because war is considered "a matter of *killing each other*" (161). Therefore, as Paul Kahn puts it, in "Imagining Warfare," "it is the willingness to die that creates a license to kill" (218). The principle of reciprocity notably implies the possibility of self-defense. As a result, Chamayou suggests that the secondary framework of war would prohibit weapons that suppress the possibility of reciprocity, such as drones (160). Despite this, drones are increasingly used as weapons of war across the world.

The advantage of the use of drones "is that they allow you to project power without projecting vulnerability," as drone operators surveil and strike their targets from a great distance (Deptula qtd. in Chamayou 12). The ability of the sovereign to "project power without projecting vulnerability" challenges the current framework of war, as reciprocity is no longer possible when unmanned aerial vehicles keep operators outside the realm of risk. The framework of war that informs international law implies the right to self-defense for all combatants. However, drones suppress the possibility of self-defense (Chamayou 160). As a result, drone warfare disrupts what "would amount to something like a right not to be deprived of combat," or more simply, "the right to the chance to combat" (160). Without the opportunity for combat with the opposing force, the structure of reciprocity collapses. As a result, "war degenerates into a putting-to-death" as only one force maintains the possibility to kill (162). Here, the drone "rules out combat and […] transforms war from being possibly asymmetrical into a unilateral relationship of death-dealing in which the enemy is deprived of the very possibility of fighting back." Again, as a

result, warfare "surreptitiously slips out of the normative framework initially designed for armed conflicts" (162).

In the war on terror, United States drone operators remain out of reach while targets are deprived of the possibility of self-defense. Operators often remain on American soil, using unmanned aerial vehicles to deploy missiles against targets that are thousands of miles away. As a result, the US military maintains the ability to kill while forgoing the risk of being killed; thus preserving American lives while others are unilaterally vulnerable to the technology of the drone (Chamayou 12). This dynamic of "war without risk," transforms American soldiers into assassins who are "ready to kill only if they are certain that [they] themselves will not die"—a significant shift from the traditional concept of war that authorizes lethal force only when it is reciprocal (157). Ultimately, the drone enables the operator to see without being seen and kill without being killed, all while asserting mastery over the space between themselves and their target. To carry out targeted killings, the drone also commands mastery over the airspace in countries whose borders they traverse in search of terrorist suspects.

In a "Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions" for the UN Human Rights Council, Philip Alston suggests that targeted killings—defined as the "intentional, premeditated, and deliberate use of lethal force by States"—result in "highly problematic blurring and expansion of the boundaries of the applicable legal frameworks," namely "human rights law, the laws of war, and the law applicable to the use of inter-state force" (3). As Alston explains,

> Even where the laws of war are clearly applicable, there has been a tendency to expand who may permissibly be targeted and under what conditions. Moreover, the States concerned have often failed to specify the justifications for their policies [on targeted killings], to disclose the safeguards in place to ensure that targeted killings are in fact legal and accurate, or to provide accountability mechanisms for violations. More troubling, they have refused to disclose who has been killed, for what reason, and with what collateral consequences. The result has been a displacement of clear legal standards with a vaguely defined license to kill, and the creation of a major accountability vacuum. (3)

The lack of accountability for challenging and violating international law, coupled with ambiguous justifications for targeted killing policies results in negative impacts on the application of rights. For example, Alston cites US drone policies that normalize "pattern of life" assessments that determine targets based on behaviour, movements, and patterns (8). These pattern of life assessments, or "signature strikes," do not require that a suspect's identity is confirmed (8; Gregory 13). Rather, the target is killed based solely on their behaviour patterns and movements—the specifics of which are unknown (Chamayou 47). Steven Lee suggests that signature strikes are more likely to violate the principles of discrimination between combatants and civilians and the rule of proportionality against the threat, as signature strikes are based on circumstantial evidence and suspicious activity of unknown individuals (436). However, because the United States seeks to reinterpret normative understandings of concepts, such as "proportionality" and "combatant," it is difficult to understand the scope of these policies.

Rosa Brooks notes that the concern with US drone practices is not that they violate international law directly. US drone strikes challenge international law "precisely because they defy straightforward legal categorization" (83). Brooks goes on to suggest that "the post-9/11 legal theories" underlying US drone strikes "constitute a serious, sustained, and visible assault on the generally accepted *meaning* of certain core legal concepts, including 'self-defense,' 'armed attack,' 'imminence,' 'necessity,' 'proportionality,' 'combatant,' 'civilian,' 'armed conflict,' and 'hostilities'" (83). Furthermore, while the United States claims to be in an armed conflict with al Qaeda and associated forces, the lack of clarity surrounding justifications for US drone strikes means that it is unclear whether they fall within "armed conflict" justifications (90; Dworkin 5). Moreover, the specifics surrounding how targets are assessed as combatants of the enemy force, as well as how "associate forces" are defined are unclear. Despite the ambiguity of US definitions of these concepts, the expansion of the war on terror into Somalia and Yemen, where there is no presence of al Qaeda, was justified on the basis that "associate forces" may be targeted there (Dworkin 5). To verify the legitimacy of the legality of drone strikes, greater transparency and accountability from the United States is required, particularly regarding interpretations and definitions of key terms that are imperative in restricting the global use of lethal force.

Without clear and consistent definitions of key terms that are essential for interpreting and following international law, accountability for actions that defy or challenge international

laws that limit the use of force and protect civilians is increasingly difficult to uphold. Brooks is clear in pointing out the necessity for globally shared interpretations of key concepts because,

> The international rule of law hinges on the existence of shared lexicon accepted by states and other actors in the international system. With no independent judicial system capable of determining (and enforcing) the meaning of words and concepts, states must develop shared interpretations of the law and the concepts and terms it relies on, and be willing (mostly) to abide by those shared interpretations. When such shared interpretations exist, key aspects of the rule of law can be present even in the absence of an international judicial system; state behaviour can be reasonably predictable, nonarbitrary, and transparent; and accountability can also be possible, albeit mainly through nonjudicial mechanisms. (Brooks 83)

In the context of US counterterrorism drone policies, interpretations of key concepts are more "permissive" in that they expand and "personalize" normative frameworks of war (Dworkin 1; Alston 3). Andrea Birdsall, in "Drone Warfare in Counterterrorism and Normative Change," agrees with Brooks that international law is not directly assaulted by drone policies. Instead, the United States seeks to reinterpret established norms to justify its actions (10). Birdsall argues that the United States "purposefully works to alter prevalent norms related to the use of drones in counterterrorism efforts" when it seeks to redefine the current "meaning-in-use of existing legal provisions" (1). By legitimating its actions through a more permissive interpretation of the rule of law as it pertains to drone use and targeted killing, the US attempts to alter the norms of international law in its favour (6). Challenging these norms is particularly troubling for the application of international human rights as the ambiguity of international law that allows for adaptation to new circumstances can also be manipulated for political purposes.

Ultimately, by challenging the norms of international law, the United States undermines the rule of law as a protector of human rights and sets a dangerous precedent for other nations to do the same. As the sole military superpower, it is necessary to hold the United States accountable for such actions (Brooks 96). However, as Dworkin notes, most European nations are likely reluctant to accuse the US government of violating international law (2). As a result, the United States acts as the "sole arbiter of its own actions: with zero transparency, it determines which laws apply and it comes up with its own interpretations of core concepts"

(Brooks 96). In other words, Brooks refers to the United States as "judge, jury, and executioner all rolled into one. It decides how to interpret the law to which it is subject; decides what can be counted as evidence and how to evaluate that evidence; and, ultimately, it kills" (96-97). By exemplifying a mastery over others as the interpreter of law, the US threatens to undermine its position as the promoter and protector of rights. As a powerful sovereign, the United States can uphold and suspend law, and thus rights, at its will. Derrida reminds us that, "as soon as there is sovereignty, there is abuse of power" (*Rogues* 102).

The Mobile Kill Box

As established above, increased reliance on drones to carry out warfare from a distance has transformed traditional understandings of war. Chamayou explains that classical notions of war operate within defined geographical locations. Geographical locations, including defined borders, are expected to contain armed conflict between the combatants of opposing states. However, contemporary warfare, as marked by the global war on terror, has altered the classic notion of combat between opposing forces into a hunt for enemy prey (52-53). Chamayou notes the distinct difference between combat, which "bursts out wherever opposing forces clash," and hunting, which "on the other hand, takes place wherever the prey goes" (53). In the context of the war on terror, the United States acts as a "hunting-state" pursuing the "enemy-prey" amidst a global battlefield (52). This fundamental alteration of warfare, which abandons traditional notions of the right to conquest in exchange for the right to pursuit, results in war that is carried out in "little mobile zones of hostility" (52). Controversially, drones enable the hunting-state to pursue its enemy-prey outside zones of armed conflict, effectively defying physical borders that define territorial-bound sovereignty. Traditionally, drones are authorized to strike within the "kill box," defined by the Department of Defence as a "three-dimensional area reference that enables timely, effective coordination and control and facilitates rapid attacks" (Beauchamp). The kill box, however, was transformed as a consequence of drone warfare and the increased use of targeted killing policies. Today, the kill box is defined by the location of the enemy, rather than physical borders (Weber 214). A battlefield defined by the location, and the individual body, of the enemy, illustrates the glaring transformation that drone technology has on contemporary warfare.

Through a reading of Kafka's *The Metamorphosis,* Elisabeth Weber illustrates the function of the kill box as an extension of the power of the sovereign. Gregor, Kafka's protagonist, finds himself transformed into a large insect. In his new insect body, Gregor is vulnerable, particularly to those who perceive him as inferior. Confined to his room, Gregor's interactions with his father become volatile. In one instance, Gregor is forced to move around the room in search of a hiding spot from his father's violence. However, as he attempts to avoid becoming "bug splat" by hiding from this father, "the sovereign inside the house," Gregor is "hit by a rain of projectiles, apples" and soon accepts that there is no escape (213). Gregor's vulnerability in the face of his father's sovereignty demonstrates a radical asymmetry in power between himself and his family. As Weber explains it, "even though the family feels under siege" by the impact Gregor's transformation has had on them, "they are the ones who are able to kill without being able to be killed, they are able to see without being seen. As the story goes on, the more the father […] become[s] invulnerable, the more Gregor approaches a state of utter vulnerability" (213). Weber suggests that the reduction of Gregor's identity to a vermin that must be exterminated in the confines of his room closely parallels the kill box. Vulnerable to the powerful sovereign that attacks from above, Gregor's depiction resembles that of the enemy-prey, who must hide to escape pursuit. Gregor's father, the hunting-state, perceives his son as the enemy who must be destroyed, and thus Gregor's insect body becomes the kill box.

The transformation of the kill box as a mobile zone of hostility that follows the enemy-prey wherever it goes illustrates how the drone asserts mastery over others. Kafka's depiction of Gregor's relationship with his family demonstrates a radical power dynamic between the vulnerable body of the prey and the invulnerable nature of those who could inflict violence from above, without risk. When the kill box is reduced to the location of the prey, rather than confined to a geographical zone—as in Kafka's narrative—it risks "justify[ing] the equivalent of a right to execute suspects anywhere in the world, even in zones of peace, illegally, and without further procedures" (Chamayou 58). Already in practice by the CIA, which continues to deploy drone strikes in Somalia, Yemen, and Pakistan—all of which are officially at peace with the United States—these broad justifications for execution threaten to turn drone warfare into what Derek Gregory calls "the everywhere war," an outcome with undeniable humanitarian concerns (15). This reimagining of warfare contradicts the current logic of international law, and thus undermines the protection it promises the global community.

"The rule of law," as Birdsall writes, "requires that all its subjects are treated equally and […] law needs to be transparent and predictable" (20). Furthermore, Birdsall notes that "law's subjects need to know what rules govern them and also how particular rules are enacted and interpreted" (20). The rule of law and human rights go hand and hand, as laws are enacted to uphold and protect the individual rights of all human beings. According to the US Department of State, "a central goal of U.S. foreign policy [is] the promotion of respect of human rights, as embodied by the Universal Declaration of Human Rights" ("Human Rights and Democracy"). However, when the United States selectively adheres to international laws and reinterprets normative frameworks that inform international law, it does so in a manner that withholds the rights of "potential enemies." The reinterpretation of international law exemplifies the hybrid law-war model, as outlined by Luban, through which the US suspends the rights of combatants by depicting them as criminals. Luban argues that "the model abolishes the rights of potential enemies (and their innocent shields) by fiat—not for reasons of moral or legal principle, but solely because the United States does not want them to have rights," presumably because "the more rights they have, the more risk they pose" (224-225). However, "American's urgent desire to minimize their risk" against possible attacks in the future "doesn't make other people's rights disappear" (225). The way that the US suspends law, and rights, at its will exemplifies its position as sovereign that upholds the ideal of rights and justice for some, while subsequently undermining them for others.

In analyzing the legal and ethical implications of drone warfare, Derrida's concept of autoimmunity remains pertinent. Similarly to the torture practices analyzed in Abu Ghraib and Guantánamo Bay, drone warfare can be redescribed as an autoimmune process. The sovereign's abuse of power through the unlawful use of drones reiterates the contradictory nature of the sovereign. As the defender of rights and law, the sovereign seeks to mitigate threats to democracy. To do so, the sovereign utilizes military strategies that challenge international law and suspend the rights of others. As a result, the sovereign holds contradictory realities simultaneously as the protector and violator of rights. In the context of the war on terror, the United States seeks to hunt and kill terrorists and their associates to prevent future attacks within its borders. However, the use of drones to carry out targeted killings of suspected combatants defies the democratic logic of international law and human rights by failing to extend the promises of democracy to others.

Drone warfare further exemplifies how autoimmune processes "regenerate, in the short or long term, the causes of evil they claim to eradicate" (Derrida "Autoimmunity" 100). The "'terrorizing effect' of the persistent presence of drones" has considerable effects on communities that live in a constant state of anxiety and vulnerability (Weber 225). Following Derrida's description of the autoimmune, the United States effectively reproduces the terror it was confronted with on September 11. By inflicting mass terror on others, particularly in Middle Eastern countries that are perceived through an oppositional lens as a homogenous representation of the "evil terrorist," the United States masks its sense of vulnerability and reestablishes its position as the sole military superpower. Furthermore, not unlike previously considered events, the subjugation of Middle Eastern communities through the assertion of Western sovereignty and mastery by drone warfare works to regenerate cycles of revenge. Weber importantly notes that while drones may effectively target and kill those suspected of terrorist activity, "their strategic effectiveness is limited. Drones may kill terrorists with ruthless efficiency, but they leave the fundamental drivers behind terrorism unaddressed—and they may even exacerbate those motivations" (Kaag and Kreps qtd. in Weber 220). Therefore, drone warfare represents one element of the autoimmune response to 9/11 that reproduces the terror it seeks to destroy. One significant aspect of drone warfare that exemplifies the violation of the promises of democracy and the reproduction of terror is the impact drone strikes have on civilians and their communities. Wills suggests that "the target" of the strike "is destroyed in an instant but the blast reverberates across the impact zone to claim other than the intended victim or victims; and beyond that zone, it has the potential to reverberate all the way back to the United States, its allies, or its interests in the form of terrorists blowback" (*Killing Times* 150).

The Reproduction of Terror

While the modern and Western concept of rights promises all individuals equal rights, including in the circumstances of war, the impact drone warfare has on individuals and communities in non-Western nations illustrates the limitations of the American interpretation and application of rights theory. According to the Geneva Conventions, all "persons taking no active part in the hostilities, including members of armed forces who have laid down their arms […] by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely" regardless of "race, colour, religion or faith, sex, birth or wealth, or any other similar criteria" (qtd. in

Chamayou 69-70). Article IV of the Geneva Conventions goes on to prohibit "violence to life or person" and to require that all individuals are afforded "all the judicial guarantees which are recognized as indispensable by civilized persons," drone warfare routinely endangers and kills innocent violins without any warning, and certainly without any legal charge (International Committee of the Red Cross 170).

Marjorie Cohn and Jeanne Mirer argue in "Armed Drones Violate the Right to Peace" that the increased use of unmanned aerial vehicles, particularly by the Western nations that championed the United Nations Charter, is antithetical to the human right to peace as it directly violates the Charter's "imperative that states resolve their disputes peacefully" (412). Cohn and Mirer highlight Article 2(3) of the UN Charter which mandates member states to "settle their international disputes by peaceful means in such a manner that international peace, security, and justice, are not endangered" (412). The right to peace was then reinforced by UN Resolution 39/11, *Declaration on the Right of Peoples to Peace*, which declared that "the peoples of our planet have a sacred right to peace," while Resolution 33/73, *Declaration on the Preparation of Societies for Life in Peace,* states that "every nation and every human being, regardless of race, conscience, language or sex, has the inherent right to peace" (qtd. in Cohn and Mirer 412). Cohn and Mirer argue that drones violate this right as armed drones interfere with the peaceful lives of those who are under constant surveillance, result in many civilian deaths in the vicinity of strikes, and reduce the threshold for violence as fewer resources and less public support is required to wage war (416-417). The United Nations also recognizes, in Resolution 39/11, that "life without war serves as a primary international perquisite [sic] […] for the full implementation of the rights and fundamental human freedoms proclaimed by the United Nations" (qtd. in Lee 432). The violation of the right to peace, particularly through war, erodes the application of human rights for non-Western communities that are targeted and surveilled by drones.

Despite claims that the precision of drones limits collateral damage while protecting American lives from combat, drones endanger the lives of many "Pakistanis, Iraqis, Afghanis, Somalis, Yemenis, and Syrians who happen to be in the vicinity when the unmanned aircraft unleashes its lethal payload" (Cohn and Mirer 411). While civilian casualties are rarely acknowledged, and suspected to be greatly underreported by the US government, studies suggest that drone strikes result in ten times as many civilian deaths than manned fighter planes (411).

By "repeatedly proclaiming that drones and other surgical strikes are so accurate that they cause no more than negligible collateral damage, supporters of that strategy seem to have come to believe that all serious adverse effects have been eliminated" (Chamayou 64). Instead, as Chamayou argues, drone precision creates a paradox that extends the battlefield globally, rather than reducing it to a specific target (56). In other words, while the principle of precision theoretically reduces the battlefield to the individual target—the kill box—it simultaneously liberates the boundaries of the battlefield to be anywhere in the world. Consequently, the increased reliance on drone technology in warfare threatens to expand the battlefield into a global "hunting ground" which significantly impacts the safety and peace of the global community.

As previously considered, US torture practices in Abu Ghraib and Guantánamo Bay demonstrate a striking violation of human rights in the name of justice which is replicated through drone warfare. Weber, in a comparison of drone warfare to torture practices, illustrates how drones impact communal life in areas that live under the perpetual threat of drone strikes. To recall Weber's analysis of torture, considered in Chapter Two, modern torture practices not only inflict unilateral pain on victims but intentionally isolate victims from their communities by shrouding them in shame. Due to a lack of physical scars to garner sympathy for their pain, victims are often met with little compassion from their communities and are thus disconnected from communal life (Weber 225-226). Drone warfare, particularly in the context of the war on terror, reflects the unilateral nature of torture, as the United States utilizes drones to target suspects in predominantly Middle Eastern countries that are not evenly matched in power (215). Like torture, the long-lasting effects of drone warfare threaten to destroy the social fabric of communities by disrupting day-to-day communal life.

According to International Humanitarian Law, the battlefield of an armed conflict is defined as a space separate from civilians (Weber 220). However, with the replacement of geographically confined combat with a mobile kill box, the battlefield can be anywhere, including in civilian communities. As a result, even when the kill box is reduced to a single target, the negative impact on civilian communities increases as the continuous presence of drones inflicts mass terror on entire populations (219). Wills calls the drone an "exterminating angel, hovering in the sky" whose ability to unleash violence without warning results in entire populations becoming slaves to "airborne terror" ("Drone Penalty" 181). This terror disrupts

community engagement as the "permanent death threat looming above" discourages public gatherings and education due to overwhelming fear that any crowd may be the next target of a drone strike. Drone warfare, as a result, "create[s] an acute kind of trauma that is not limited to the actual attack. It has to do with the constant threat flying above" (Pasternack qtd. in Weber 172). Due to technological advances, Reaper drones can see clearly, even on cloudy days, and thus individuals living in areas where drones circle above report how the fear instilled by the threat of sudden death has made it impossible for children to go to school or play outside (Weber 175). In the Federally Administered Tribal Area (FATA), a region in Pakistan that is regularly surveilled by US drones, children are often pulled out of school as their families fear they will be killed for congregating. Some children are also forced to pause their education to care for relatives injured by drone strikes, while others must enter the workforce to subsidize income lost by the death of family members (International Human Rights 88-89). As a result, the presence of drones has a significant impact on access to education in areas where literacy rates are already low and therefore has long-lasting impacts on the communities affected. The presence of drones, whether they strike or not, generates an acute trauma that results in barriers to community congregation.

Along with educational access, drones render peaceful assembly in communities inaccessible due to the possibility of a lethal strike. In 2011, the United States deployed at least two drone strikes at a crowd in North Waziristan and claimed to have only killed insurgents. However, first-hand accounts of the strikes, as well as an independent investigation, reported that at least 42 people were killed and 14 more were injured while attending a *jirga* (International Human Rights 57). The *jirga* is the most important legal institution in the FATA and is comprised mostly of community elders who assemble to resolve local conflicts (24). Strikes of this nature exemplify concerns about the practice of "signature strikes," as they put civilians at greater risk and illustrate how drones terrorize communities through perpetual fear and anxiety. *Living Under Drones* cites the testimony of an elder in Pakistan that describes how the presence of drones has impacted his community: "We are always awaiting a drone attack and we know it's certain and it's eventual and it will strike us, and we're just waiting to hear whose house it will strike, our relatives', our neighbors', or us. We do not know. We're just always in fear" (International Human Rights 151). The negative impact of drones not only violates the democratic rights of civilians but threatens to reproduce terror.

The perpetual presence of drones keeps communities "on the verge of trauma," which Michael Richardson suggests is a result of "an intensive relation between the not-yet of traumatic violence having commended before it is felt and the already-too-late of that experience" (203). Richardson argues that the impending violence of the drone that has not yet come—but is inevitable and unstoppable—results in trauma whether or not the strike is deployed (204). The constant threat of drones undermines the sense of safety for communities to the extent that they develop "anticipatory anxiety;" traumatized by the severe fear and stress that they could be attacked at any time (International Human Rights 81). Compounded with feelings of powerlessness in the face of unilateral warfare, symptoms of trauma have manifested as psychological and physical ailments in Pakistani civilians (82). The contributors to *Living Under Drone*s recall their interviewees describing symptoms of anticipatory anxiety and post-traumatic stress disorder such as emotional breakdowns, hiding when drones appear, fainting, intrusive thoughts, nightmares, startled reactions to loud noises, and outbursts of anger. Physical symptoms, including loss of appetite and sleep disturbances, were also reported (International Human Rights 83). Psychiatrists in Pakistan have also reported that the mental and emotional distress of their patients has become so severe that they become ill; experiencing body aches, pains and vomiting (85). As a result, drone technology results in severe, long-term consequences for communities that are frequent targets of drone strikes. In the war on terror, US drones ultimately reproduce the terror that the United States seeks to eradicate.

The Dehumanization of Others

Drone warfare, as a unilateral infliction of vulnerability and violence, demonstrates how the oppositional nature of Western logic limits the application of rights theory through the dehumanization of others. The Cartesian principle, "I think, therefore I am," significantly informs Western philosophy and underpins the modern development of Western rights theory. This principle installs a hierarchy between man and animal, as it privileges the rational mind over the natural body. By privileging "logocentrism," which holds rational language as closest to truth, the man/animal duality renders the "rational man" master over the natural world. As Marie-Louise Mallet points out in her forward to Derrida's *The Animal that Therefore I Am* (2008), even when the Western philosophical tradition refers to the human as a rational animal, it remains in opposition to the rest of the non-human animal. As a result, "animality" is erased and

defined negatively in opposition to the "proper" human who is endowed with speech, reason, culture, respect and so on (Mallet x). The powerful oppositional tradition inherited by the Western concept of rights has justified Western mastery over others for centuries, particularly as others are portrayed as "the animal" by dehumanizing imagery and language. The language used to describe aspects of drone technology and its targets has a dehumanizing effect on the human beings who are directly impacted by drone warfare. By dehumanizing targets and civilians affected by drone strikes, the rights of individuals are easier to disregard, as the non-human animal is not endowed with rights.

Kafka's portrayal of Gregor's transformation from human to insect is useful in demonstrating the outcomes of the hierarchy between the human and the animal. While the term animal, in the dichotomy between man and animal, may or may not refer to non-human animals, it always implies that the subject is less than human. In Gregor's case, his insect body repeatedly elicits disgust from others and soon after his transformation, his human soul is no longer recognized by his family (Weber 230). As Weber notes, Gregor's humanity slowly declines as his room is no longer perceived as a dwelling, but a dumping ground for garbage and his insect body, robbed of a human face, is no longer addressed (231). Finally, when Gregor dies, his death goes unmourned and his faceless body goes unburied (231). By dehumanizing Gregor's life, his family perceived him as less than human, and thus unworthy of mourning. The language used by the US military to refer to its targets—predominantly Muslim men in Middle Eastern countries—works to erase the humanity of the target (215). The language used by the military to refer to those killed by drone strikes is not unlike the language used to reduce Gregor's humanity to the unworthy state of an insect. Common parlance in the US military and the CIA refers to the victims of drone strikes as "bug splat," while the outcome of a particularly lethal strike is said to "cause heavy bug splat" (215). Moreover, computer software called *Bugsplat* is used to determine the likelihood of destruction of impending strikes (215). The lack of identification of strike victims, both before and after their death, further suppresses their humanity, as individuals become faceless. The systematic dehumanization of predominantly non-Western populations that are surveilled by drones perpetuates the dualistic opposition between man and animal. By positioning others as closer to "animality" than to the "proper" human, non-Western populations are dehumanized in a way that "makes the deprivation of their rights more acceptable in the eyes of a Western soldier, politician, or citizen" (Mokhtari 12).

This sentiment is perpetuated further by the motto of the hunter-prey drone, the Reaper, that declares to US soldiers that "The Others May Die" (Chamayou 92). This motto positions those condemned by drone strikes as inferior to their American counterparts, who remain outside the realm of risk. Already rendered faceless through the reduction of their humanity and the lack of identification, the lives of the victims of drone strikes are devalued. While drone partisans argue that drones are humane weapons, as they save the lives of American soldiers, it is important to question how a weapon can be humane when thousands of civilians are being injured or killed. The perception of drones as humanitarian weapons is particularly troubling when considered alongside the long-term impact that drone surveillance has on entire communities. With estimates of civilian causalities in the hundreds and reports of severe psychological, physical, social and economic consequences for communities that are terrorized by the presence of drones, it is clear that drone warfare suggests a "radical inequality of the value of life" (155). When one force rearranges warfare to avoid casualties in their own force, the hierarchal valuation of life violates the principle that all human lives are equally valuable and worthy of dignity (155). The radical transformation of the paradigm of war, considered above, perpetuates a hierarchy between opposing forces. Through dehumanization, this hierarchy becomes normalized and countless lives impacted by drone violence are erased. As Derrida reminds us, "one does not count the dead in the same way from one corner of the globe to the other" ("Autoimmunity" 92).

Conclusion

As illustrated, drone technology has significantly and permanently altered the traditional concept of war. As the reliance on drones as weapons of war continues to increase globally, it is necessary to question and challenge whether drone warfare can be perpetrated without risking the further erosion of human rights. US drone practices and policies present one of many examples of warfare that seek to reinterpret established norms that inform international law and protect the application of rights. However, as the world's leading democratic power, the United States holds a unique responsibility in setting precedents for the application of rights across the globe. Currently, US drone practices and policies that seek justification through selective combining of elements of war and law; self-defense and armed conflict, violate the rights the US claims to champion while setting a precedent for other countries to do the same. The war on

terror, with no clear end, is a "mission of killing and capturing, in territories all over the globe, that will go on in perpetuity" (Luban 228). As Luban notes, if drone warfare continues in its current form, "it follows […] that the suspension of human rights implicit in the hybrid war-law model is not temporary but permanent" (228).

This chapter considers how drone warfare, as an instrument of the war on terror, perpetuates the oppositional logic inherited by Western rights theory. To illustrate the repercussions of hierarchal oppositions, the events analyzed demonstrate how lives are valued in radically different ways across the globe. The particularly notable reliance on drones by the US military demonstrates how the West continues to operate within hierarchies that inflict violence on others. As Judith Butler suggests in the closing pages of *Precarious Life,* it is necessary to consider the suffering inflicted on others at the hands of Western sovereignties (150-151). It is particularly important to consider acts of war and violence that are used as strategies to secure one community from vulnerability and suffering at the expense of the other (30). Taking the suffering of others into consideration is both a matter of recognizing the impact that US actions have on others and understanding that the suffering caused by Western dominance only works to divide communities further (30). Moreover, the concept of rights cannot be transformed if the goal of hegemonic power and control remains intact. Instead, it is necessary to call into question the frames by which the public is exposed to others, whether it is through media or government agencies. It is not until others are perceived as equally worthy of rights and protection that "certain kinds of lives may […] become visible or knowable in their precariousness" (41).

Conclusion

Taking Accountability for the Suffering of Others

By analyzing the limitations of current rights theory, this thesis attempts to show how oppositional logic perpetuates Western superiority and fails to extend equal access to rights and justice to others, including non-human animals, nature, and non-Western individuals. While the development of individual rights has standardized the humane treatment of human beings and mandated access to rights and justice, there is much to be done to ensure that rights are equally accessible to everyone. By considering the implications of a hierarchy-based logic of rights, each chapter of the present thesis analyzes how contemporary events, such as 9/11 and the subsequent response by the US government, contribute to the erosion of human rights. More specifically, it considers how US-sponsored torture, indefinite detainment, and drone warfare exert Western mastery over others, which perpetuates violence against colonial subjects who have historically been excluded from accessing human rights.

It is important to note, as Derrida does in "Autoimmunity: Real and Symbolic Suicides" that "one can condemn unconditionally certain acts of terrorism (whether of the state or not) without having to ignore the situation that might have brought them about or even legitimated them" (106-107). Judith Butler expresses a similar sentiment in *Precarious Life: The Powers of Mourning and Justice* (2004), noting that it is necessary to consider alternative methods of American intervention in global politics that reduce the likelihood of violent responses to US imperialism. As Butler clarifies, "this is not the same as holding the United States exclusively responsible for the violence done within its borders, but it does ask the United States to assume a different kind of responsibility for producing more egalitarian global conditions for equality, sovereignty, and the egalitarian redistribution of resources" (14). Though this thesis critiques the Western response to violence, it ultimately condemns all forms of violence against civilians while recognizing the social and political circumstances that often results in violent resistance.

Bringing together a diverse group of theorists and a range of primary and secondary sources contributed to an analysis of the complex genealogy of the concept of rights that spans a vast amount of time—from the sixteenth to the twenty-first century—in relatively few pages. Since the overview of this genealogy focuses primarily on the emergence of rights in the Western world—including Western Europe and North America—it remains limited in scope.

Therefore, a similar analysis of the development of, and interaction with, human rights in broader geological contexts would help to further the conversation surrounding the limitation of rights theory. Furthermore, as noted early on in Chapter 1, this thesis remains limited by the vast history and complex intersections between social, political, and economic developments that contributed to Western philosophical thought, the emergence of the individual, the inception of human rights, and the geopolitical interactions between Western and non-Western countries. By focusing on select major Western developments for the sake of clarity and brevity, the present thesis only scratches the surface of the many other historical events, philosophies, and ideologies that led the Western world to where it is today.

The goal of this thesis is to contribute to scholarship on the issue of rights by focusing on one central issue with the current understanding and application of human rights and international law. While this thesis does not attempt to provide a solution to the complex issue of human rights, it instead intends to consider how to move forward in the current landscape of inequitable rights. Most importantly, a recognition of the oppositional logic that informs Western thought must be acknowledged by public discourse as the implications of hierarchy-based institutions are damaging to global interconnectedness. The theorists that prove to be central to the analysis of the implications of the hierarchical oppositions that inform current rights theory express an urgent appeal for compassion for others.

For example, in "Avowing—The Impossible," Derrida notes how social hierarchies often determine communities, and thus predetermine obligations to one another. Derrida highlights the "undeniable and unjustifiable hierarchy" that prioritizes responsibility to community members, such as family, friends and neighbours, as well as those who speak the same language or share religious traditions, above others (37-38). This community, which Derrida calls "his own," is "the ensemble of those with whom, precisely is *given to [him],* prior to any choice to 'live together'" (37-38). Furthermore, he questions "how, then, to deny but also to justify the interior urgency" one has to care for their own before caring for others in the world (38). Here, Derrida calls attention to the hierarchy through which humanity relates to others:

> For the eloquent and the meticulous militants of the rights of men and of social struggles in their countries should never forget that never, in the entire history of humanity, have so many on earth been lacking bread and drinkable water; and that indifference and passivity on this

> subject is the beginning of a crime against humanity […] if he restricts himself to my neighbor, my brother, my fellow man, man, also avows, what a paradox, the accepted murder of all living others in general. (38)

As this thesis demonstrates, the articulation of human rights falls short in the equal distribution of rights and justice, as many are left without access to justice. At the same time, the suffering of these individuals is often ignored by media and public discourse, particularly when suffering occurs outside of the Western world. The prioritization of one's community and the indifference to the suffering of others demonstrates yet another hierarchy that shares the ontological design of Descartes' mind/body opposition—us/them, or same/other. As discussed in the above chapters, the same/other dichotomy, that privileges one's community above others, leads to a disregard for the safety, rights, and justice of other communities.

In the context of the war on terror, the rights and justice of the American people were privileged above those of Iraqi and Pakistani people, along with countless others in the Middle East. Butler summarizes this discrepancy through the concept of grievability:

> Lives are supported and maintained differently, and there are radically different ways in which human physical vulnerability is distributed across the globe. Certain lives will be highly protected, and the abrogation of their claims to sanctity will be sufficient to mobilize the forces of war. Other lives will not find such fast and furious support and will not even qualify as "grievable." (31)

Butler's passage reiterates the consequences of oppositional logic that prevails in Western thought. The hierarchy same/other not only privileges some individuals at the detriment of others, but demonstrates a discrepancy in the value of human life. As Butler analyzes at length throughout *Precarious Life* and *Frames of War: When is Life Grievable?,* every life is not counted equally. It is important to recognize the normalization of the unequal valuation of human life across the world, not only because it contributes to justifications for violence and the erosion of rights, but because it negates the shared humanity amongst all human beings. For this reason, Butler, like Derrida, emphasizes the obligation individuals have toward others, whether family or strangers, because the precarious nature of human beings "implies living socially, that is, the fact

that one's life is always in the hands of the other" (14). The precariousness and vulnerability of human life are at the forefront of the discourse on the war on terror as millions of individuals are confronted with a violent assertion of mastery through war. Despite universal precariousness, the humanity of others is often erased and the deaths of millions remain anonymous, particularly because they are not grieved by the Western world. As Butler notes we rarely "hear the names of the thousands of Palestinians who have died by Israeli military with United States support, or any number of Afghani people, children and adults" that die at the hands of Western sovereignty.

This thesis traces the genealogy of the concept of rights to emphasize how the emergence of the concept of the individual and the subsequent development of rights are inherently exclusive. As demonstrated, the concept of the individual emerged alongside European colonial expansion and thus often excluded colonial subjects because they were considered irrational, uncivilized, and inferior to their European counterparts. As a result, the concept of rights, which affords inalienable rights to individuals, is limited in application. The overview of early rights theorists outlined in Chapter 1 demonstrates how Enlightenment theorists excluded colonial subjects from rights, as well as from the status of the individual. Lu-Adler notes that, in the case of Kant, African slaves and Indigenous peoples were not considered "normatively [equal]" because they were not "full persons," and thus "merit[ed] differential treatment" (Mills qtd. in Lu-Adler 264). Today, the limitation of rights theory remains exclusionary because it is informed by the same hierarchical oppositions that once justified slavery. While international law and human rights have developed exponentially since the Enlightenment, the logic of hierarchical oppositions prevails today and continue to influence Western thought and cultural norms—particularly in the Western perception of others. Butler, in the context of the hierarchy of grief, wonders:

> To what extent have Arab peoples, predominantly practitioners of Islam, fallen outside the "human" as it has been naturalized in its "Western" mold by the contemporary workings of humanism? What are the cultural contours of the human at work here? How do our cultural frames for thinking the human set limits on the kinds of losses we can avow as loss? After all, if someone is lost, and that person is not someone, then what and where is the loss, and how does mourning take place? (*Precarious Life* 32)

The hierarchies prevalent in the concept of the individual and rights contribute to our cultural framing of grief and mourning—including determining which lives count and which do not. Considering Butler's analysis alongside the colonial origin of Western philosophical thought demonstrates the far-reaching consequences of social structures and institutions built on hierarchies. In the confines of a hierarchy, all subjects cannot be considered equal. It is this broad context through which this thesis considers the issue of rights and aims to contribute to the conversation of how to live together.

Elisabeth Weber's analysis of the erosion of human rights, particularly in the context of post-9/11 America, emphasizes the need for accountability for other's suffering (13). In summary, Weber's introductory chapter to *Kill Boxes* prioritizes a call to action for Americans, and others Western citizens, to take recognize and acknowledge their participation in the violent actions of their sovereigns. In Weber's words, "we are addressed by the victims of the US drone wars, however little American citizens may have heard the names of the places obliterated by the bombs for which their taxes pay" (13-14). Weber, like Butler and Derrida, attempts to confront the Western reader and urgently calls on Western citizens to recognize their contribution to the suffering of others—whether it is funding the bombs that are dropped on others or ignoring their suffering. In order to acknowledge this suffering, Weber notes that one must first own up to their contributions to it. A close reading of Weber's work demonstrates that a recognition and dismantling of hierarchical oppositions is essential for Western culture to shift toward an inclusive theory of rights—a transformation that would benefit all human beings—as practices that perpetuate Western mastery only divide communities from one another.

A recurrent theme throughout the work of Derrida, Butler, and Weber is that the Western frameworks on which international rights and law are currently founded cannot be meaningfully changed until all individuals are valued equally. As Butler concludes in *Precarious Life,* "human rights law has yet to understand the full meaning of the human," and therefore limited definitions of the human, framed by Western notions of reason and civilization must be challenged (90). To "rethink the human," to Butler, means to accept that those who do not fit into a finite definition of human are, in fact, still human (90). By calling attention to the inequality of current rights theory, this thesis demonstrates the limitations of one aspect of Western civilization that is often perceived as universal. For change to occur, the recognition of the limitations of Western philosophical thought, and the institutions built on it, is necessary. Derrida calls on philosophers,

and perhaps the humanities more generally, as Weber does, to "demand accountability from those in charge of public discourse, those responsible for the language and institutions of international law" to recognize the suffering of others and reflect on the radical changes that must occur for human rights and international law to undergo a difficult, but necessary, transformation (Weber 13; Derrida 106).

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