

Deadly Force:
Contract, Killing, Sacrifice¹

In July 2016, Micah Xavier Johnson – the so-called ‘Dallas sniper’ who shot and killed 5 police officers and injured 9 others at a Black Lives Matter protest – was blown up by a SWAT team using a remote-controlled explosive ordinance disposal robot in what was popularly reported to be the first ‘drone strike’ by law enforcement agents against an American citizen on US soil. It was the bloody conclusion of a 2-hour standoff when Dallas police cornered Johnson in a local community college building. After 2 hours of failed negotiations over surrender, Dallas police chief David Brown made the decision to send in a bomb disposal remote control vehicle armed with 1 pound of C4 explosive and detonate it, thus killing Johnson instantly. For many legal experts, the Dallas police’s killing of Micah Johnson was – despite its superficial similarity to the military killing of an enemy combatant in warfare – in fact an entirely legal act under a long-standing principle of American law enforcement: deadly or lethal force. If law enforcement officers have probable cause to believe that a suspect poses ‘a significant threat of serious bodily injury or death to themselves or others’, the US Supreme Court’s 1985 ruling on *Tennessee versus Garner* declares, then they are thereby authorized to use ‘deadly force’ to neutralize that threat (Graham 2016). In the view of Seth W. Stoughton – a former police officer who is now a professor of law – the actual weapon used to deliver deadly force once it has been authorized (club, knife, gun, drone, etc.) is in fact legally immaterial: ‘The circumstances that justify lethal force justify lethal force in essentially every form’ (Graham 2016).

To be sure, the Dallas Police’s killing of Johnson – a former US army reservist who had served in Afghanistan – by a bomb disposal robot which was originally used against insurgents in Iraq (Graham 2016) nonetheless inevitably prompted a new debate about what happens when drones come ‘home’. It is hardly surprising, given the martial optics of the case, that the Johnson case was widely reported in the American media as a tipping point in the gradual militarization of domestic policing.

For Stoughton, who defended the legality of the Johnson killing, the domestic deployment of drones nevertheless calls into question the legal, political and ethical borders of civil society itself. If the military ‘has many missions’, he argues, ‘its core is about dominating and eliminating an enemy’, whereas ‘Policing has a different mission: protecting the populace’ (Graham 2016). In the Johnson case, this classic set of oppositions which underpin the modern state – between the citizen and the enemy, the police and the military and, ultimately, peace and war – are seemingly rendered inoperative: protection of the populace and elimination of an enemy coincide in the same moment and even the same body.

If Micah Johnson’s killing thus seems to represent a new phase in the history of civil society – where the juridical logic of sovereignty is, as Oliver Davis compellingly argues elsewhere in this special section, definitively penetrated by the martial logic of war – what follows will seek to argue that we might also see the phenomenon of the ‘civil drone strike’ as the outworking of a much older political aporia between sovereignty and violence, civil law and martial law, peace and war which goes to the root of the modern state itself.² It seeks to capitalize on a growing body of literature that canvasses for some kind of legal, political or ethical continuity (rather than a defining break or rupture) between domestic policing and drone warfare (Walzer 2007; Kahn 2002 and 2013) – and even to locate the drone decisively within the orbit of modern liberal state power itself (Wall 2013; Neocleous 2013; Wall 2016). For Neocleous, as we will see later on, what we call the ‘war-police’ distinction is ultimately the product of a ‘general liberal mythology replicated in the whole sociological tradition, namely the simplifying of the complexity of state power into distinct dichotomies: law/administration, constitutional/exceptional, normal/emergency, court/tribunal, legislative/ executive, state/civil society, and, of course, military/police’ (Neocleous 2013: 587). In order to understand what is ‘normal’ within the apparently exceptional phenomenon of the civil drone strike, though, I argue that we need to go even further back into history and explore the early modern juridico-political origins of the liberal state itself.

This essay proposes what we might call a political pre-history of drone theory which traces its evolution from the conceptual origins of the modern state itself in the 17th century to the present day. It takes its specific point of departure from the contemporary French political theorist Grégoire Chamayou’s influential critique of drone warfare in *Drone Theory* (2015). As we will see, this work is one of the very few

contributions to the (still largely presentist) field of drone theory which deems it necessary to trace the juridico-political foundation of drone warfare all the way back to the early modern period and, in particular, to the social contract theory of Thomas Hobbes. Yet, in spite of the extensive critical discussions of Chamayou's work in recent years, this genealogical dimension to his drone theory has attracted little or no attention, even though his larger argument hardly makes sense without it. To outline my own specific argument, I construct what we might call a Benjaminian historical constellation between Hobbes' theory of sovereign punishment in *Leviathan* (1651) and Chamayou's critique of drone warfare which will hopefully illuminate the juridico-political origin and fate of drone violence itself. First, I show that Hobbes' social contract theory – and in particular his famous theory of the mutual relation between protection and obedience – lays the conceptual groundwork for Chamayou's own drone theory. Second, I contend that Hobbes' particular theory of sovereign punishment upon domestic citizens pre-empts Chamayou's critique of drone warfare against foreign enemies. Finally, and most controversially, I speculate that Hobbes' theory of punishment is itself founded upon a sacrificial paradigm which uncannily returns in the phenomenon of domestic drone strikes like the Micah Johnson killing. In summary, I argue that Hobbes might perversely be called something close to the first drone theorist insofar as he is the first modern political thinker to systematically produce and sustain the state of exception between citizen and enemy, punishment and aggression, peace and war, in which the drone operates today at home or abroad. What, then, are the theoretical origins of drone violence? How does Hobbes' theory of the sovereign punishment of citizens prefigure and enable drone warfare against foreign enemies? To what extent might even the citizen themselves be a species of drone whose self-destruction is hard-wired into their very identity and can be activated by the sovereign at any point?

In Chapter 20 of his *Drone Theory*, 'In War as in Peace', Grégoire Chamayou argues that drone warfare seems to offer a solution to a fundamental aporia or tension that has afflicted the theory of political sovereignty in warfare since the 17th century

(Chamayou 2015: 177). To quickly recall Chamayou's (in many ways surprisingly orthodox) account of the emergence of social contract theory here, the French political theorist claims that civil society in the early modern period is founded upon what the English philosopher Thomas Hobbes famously calls 'the mutual Relation between Protection and Obedience': I obey my sovereign because he, in turn, protects my life (Hobbes 1996: 491). Yet, Chamayou notes, this peacetime *quid pro quo* is suddenly and violently turned upside down when the Hobbesian state decides to go to war: I must now protect my sovereign's life against foreign enemies, even at the risk of my death, *because I obey him*. For Hobbes, '*every man is bound by Nature, as much as in him lieth, to protect in Warre, the authority by which he is himself protected in time of peace*' (Hobbes 1996: 484). If sovereign power in peacetime is legitimized by the exchange of obedience for protection, in other words, Chamayou claims that this implicit contract seems to break down in warfare where the sovereign exposes the subject a-symmetrically and unilaterally to the possibility of death. Why should a subject continue to obey their sovereign, even to the point of dying in war, in the absence of any mutual guarantee of protection?

To answer this question, Chamayou argues that social contract theory actually contains an implicit sacrificial paradigm that he traces all the way back to Rousseau: I obey my sovereign to the death, not in exchange for his protection of my physical life, but for the preservation of the greater civil 'life' of the state. It is not a question of a contradiction between life and death here so much as a dialectic in which risk of death becomes the very condition of life in the state. As Rousseau claims in Chapter 5 of *The Social Contract*, 'Of the Right of Life and Death': 'whoever wills the end, also wills the means and these means are inseparable from certain risks and even certain losses' (Rousseau 2003: 64, cited in Chamayou 2015: 179). For Rousseau, I have already promised my life to my sovereign as the very condition of becoming a subject in the first place:

Whoever wants to preserve his life at the expense of others ought also to give it up for them when necessary. Now, the Citizen is no longer judge of the danger the law wills him to risk, and when the Prince has said to him, it is expedient to the State that you die, he ought to die; since it is only on this condition that he has lived in security until then, and his life is no longer only

a bounty of nature, but a conditional gift of the state [*un don conditionnel de l'État*] (Rousseau 2003: 64).

In Chamayou's reading of the social contract, I thus obey my sovereign to the death in warfare because my life *already* belongs to the sovereign and can be demanded back at any point: 'Your life is not something that you can withhold from the state, as if it had preceded the latter; your life is, on the contrary, the state's product, which it has gifted to you on certain conditions' (Chamayou 2015: 179).

For Chamayou, this sacrificial economy in which I give up my own life to the life of the state is one possible answer to the aporia of protection versus obedience in warfare thrown up by social contract theory. It is obvious, though, that this kind of archaic solution would be intolerable to our own risk-averse, security-driven modern liberal democracies where the preservation of the bare physical life of citizens overrides any larger ethical or metaphysical theory of political or civic life. Accordingly, the security state requires a different biopolitical answer to the question of what happens to the social contract in warfare – and so enters the drone. To fulfil the spirit as well as the letter of its contract with its people, Chamayou argues that the modern liberal state requires, not an affirmation of war-as-sacrifice, but rather a way of waging war *without* sacrificing the physical life of its subjects – and this is what drone warfare, uniquely, seems to make possible. If the drone did not exist, in other words, it would have been necessary for the modern state to invent it because it finally cuts the – political, ethical and phenomenological – Gordian knot that (according to Chamayou at least) has always connected killing and dying in combat: I can now fulfil my promise to obey my sovereign in war without ever relinquishing my own equivalent right to protection because a drone will fight in my place.³ In Chamayou's account, then, drone warfare constitutes what we might call the technological *aufhebung* of this contradiction between the sovereign right to both preserve the life of its subjects and command them to die: 'Waging war, but without sacrifices. Freely exercising war-waging sovereignty, but within the internal political conditions of sovereign security and protection. Abolishing the contradiction' (2015: 181).

In summary, Chamayou's genealogy sees drone warfare as the obscene fulfilment of Hobbes' dream of a perfect symmetry between protection and obedience in warfare: a modern state can now kill foreign enemies without risking the lives of its own citizens.

It is possible to suspect, however, that there is still what Neocleous (2013) might call a 'liberal' blind spot in this powerful critique of the violence which underwrites the social contract, namely, a certain tendency to equate state violence *only* with warfare. As we will see, Chamayou more or less accepts social contract theory's official description of civil society as instituting a state of political 'peace' – minimally defined in the Hobbesian sense as the absence of war, violence or domination – which does not cease unless and until it goes to war. Yet, revealingly, Rousseau's account of the sacrificial economy at work in the sovereign right of life and death in the *Social Contract* (which Chamayou himself cites) does not only or primarily concern war at all, but civil punishment. To recall the context of the 18th century philosopher's claim here, I submit to death at the hands of my sovereign in the form of capital punishment because, again, 'my' life never belonged to me in the first place: 'The death penalty imposed on criminals can be looked upon from *more or less* the same point of view: it is in order not to become the victim of an assassin that one consents to die if one becomes an assassin oneself' (2003: 64). For Rousseau, indeed, the sovereign sees no essential difference whether *de jure* or *de facto* between a citizen who breaks his social contract by committing a crime and a foreign enemy who wages war against the state:

Besides, every evil-doer [*tout malfaiteur*] who attacks social right becomes a rebel and a traitor to the fatherland [*la patrie*] by his crimes, by violating its laws he ceases to be a member of it, and even enters into war with it. Then the preservation [*conservation*] of the State is incompatible with his own, one of the two has to perish, and when the guilty man is put to death, it is less as a Citizen than as an enemy [*c'est moins comme Citoyen que comme ennemi*] (2003: 64-5).

If Chamayou tends to presume that it is only in warfare that the political *quid pro quo* between protection and obedience begins to break down – because the subject must continue to obey their sovereign with no mutual guarantee that their life will be protected by him – Rousseau's account of the sovereign power over life and death reminds us that even the apparently 'peaceful' sphere of rights and obligations is itself produced and maintained by absolute and extra-judicial sovereign violence *before* the decision to go to war is ever taken. In the peace of the Commonwealth, every domestic citizen still authorizes their sovereign's right to kill them as a foreign enemy of the state if and when it proves necessary.

In Chapter 21 of *Leviathan*, 'Of the Liberty of Subjects', Thomas Hobbes expounds his own theory of the sovereign right to punish. To recall Hobbes' central claim here, the sovereign's absolute power over life and death expresses itself in his right to punish and, if necessary, put to death any of his subjects (Hobbes 1998: 214). It is important to stress that the political theorist is not just anticipating Rousseau's claim that the sovereign has the right to wield the public sword against a subject who breaks the civil law by, for example, inflicting capital punishment. As we will see, he is actually making a much more radical claim about the absolute power of life and death which breaks open the mutual relation between protection and obedience on which the social contract rests. For Hobbes, the sovereign ultimately possesses the right to punish or kill *anyone* – guilty or innocent – in the name of preserving the peace of the Commonwealth: 'And therefore it may, and doth often happen in Common-wealths, that a Subject may be put to death by the command of the Sovereign Power; and yet neither doe the other wrong' (Hobbes 1996: 148). If Hobbes does argue that the sovereign remains bound by both divine and natural law to pursue what is 'good' for the Commonwealth, and affirms that the subject possesses certain rights and liberties – the right to a public trial in a court of law, the right to a punishment commensurate to their crime and, of course, the famous right to physically resist any violence inflicted upon them – this does not in any way disqualify or delimit the absolute right of the sovereign to inflict punishment or death with legal impunity: a sovereign who punishes or kills an innocent subject for any reason whatsoever explicitly does not commit any crime (Agamben 1998: 106; Hüning 2007: 221; Bradley 2019).⁴ In Hobbes' theory of sovereign punishment, we find something like the origin of the radically asymmetrical and unilateral right to exercise violence upon the body of a citizen who is effectively reduced to the status of an enemy who can be killed in combat. What gives the sovereign the right to lawfully demand the death of any subject in peace as in war?

To prove this point, Hobbes proposes a number of possible sources for the sovereign right to punishment – including the obscure and much-disputed claim that punishment has a natural 'foundation' in the state of nature itself (Hobbes 1996: 214; see also Agamben 1998: 106 and Bradley 2018) – but arguably the most secure basis

for this right can be found in what is called *Leviathan's* theory of authorization (Norrie 1984; Schrock 1991; Hüning 2007). It is, in other words, with the subject's original decision to authorize the sovereign to act on his behalf in the Commonwealth (expounded in Chapter 16 'Of Persons, Authors and Things Personated') that the right to punish begins. For Hobbes, the subject's decision to authorize the sovereign at the very birth of civil society necessarily also includes the authorization to punish and even kill that very subject if it should prove necessary to the preservation of the state. In Chapters 18, 'Of the Rights of Sovereignes by Institution', and 21, 'Of the Liberty of Subjects', Hobbes repeatedly insists that the subject him or herself is the original author of the sovereign right to punish any subject: 'every particular man is Author of all the Sovereigne doth; and consequently he that complaineth of injury from his Sovereigne, complaineth of that whereof he himselfe is author' (Hobbes 1996: 124, 148).

For Hobbes, revealingly, this theory of the sovereign right to punish is again underwritten by something like a 'sacrificial' paradigm or economy: I give up my own physical life for the greater political life of the state (Bradley 2017). It is revealing that he illustrates his theory with a peculiar Biblical example here: Jephthah, the leader of the Israelites, who pledges to God that, if victorious in battle against the Ammonites, he will offer up the first thing that comes to his door as a burnt offering (Judges 11: 31). After winning a great victory, Jephthah returns home to find that the first person to welcome him is his own daughter – and so he is faced with the choice of breaking his promise to God or killing his only child. Yet, the daughter herself has the solution to her father's dilemma: she willingly submits to being sacrificed and so Jephthah kills her in fulfilment of his vow (Judges 11: 36). For Hobbes, Jephthah's daughter thus becomes a paradigm of the subject's authorship of every sovereign act, including her own guiltless death:

[A] Subject may be put to death, by the command of the Sovereign Power; and yet neither doe the other wrong: as when *Jeptha* caused his daughter to be sacrificed: In which, and the like cases, he that so dieth had Liberty to doe the action, for which he is neverthelesse, without Injury put to death. And the same holdeth also in a Sovereign Prince, that putteth to death an Innocent Subject (Hobbes 1996: 148).

If the right to punish has a foundation, it does not lie in the state of nature but in a gesture of civil self-sacrifice carried out in order that the community may survive: Jephthah's daughter acquiesces in her own death so that the tribe of the Israelites themselves may live. In authorizing her own killing at the hands of her father, Jephthah the Gileadite's act of killing is transformed from what would presumably be an act of simple murder into a gesture of legitimate sovereign violence.

In Hobbes' theory of the sovereign power to punish, the origin of the social contract is thus presented as something close to a kind of sacrificial cult or ritual: what appears to be a mutual exchange of rights between subject and sovereign is in fact the theatre for a unilateral and extra-judicial exercise of sovereign violence upon the subject (see Esposito 2008: 61-3). It is ironically the subject themselves who, pre-emptively and quasi-automatically, authorizes their own death at the hands of their sovereign. Accordingly, what appears to be a sovereign act of natural killing might be better described as an act of 'artificial self-killing' on the part of the subject: an act of suicide which is carried out through the persona of the sovereign. To put it in Chamayou's terms, the Hobbesian civil subject thus owes a 'vital debt' (Chamayou 2015: 179) to their sovereign which is the very price of their citizenship – and this debt can be called in both in peace and in war. Yet, Hobbes' theory also exposes what I have called the blind spot in Chamayou's genealogy of drone warfare, which leads him to occlude the violence inherent in the constitution of the civil order itself. If Chamayou (as we have seen) claims that social contract theory only really falls into contradiction when the state commands the citizen to risk their life for the state in war – because it can no longer offer protection of life in exchange for obedience to the death – Hobbes' account of the sovereign right to punish clearly internalizes this contradiction within the 'peace' of the domestic Commonwealth itself. In the subject's very decision to authorize the sovereign to act on their behalf – a decision which is the foundation of the Commonwealth itself – they expose themselves to the possibility of asymmetric violent death *before* they are ever compelled to fight in any war.

In recent years, Hobbes has curiously been cast as a kind of drone theorist *avant la lettre*: Ian Shaw (2016) sees military drones as the logical conclusion of Hobbes' artificial theory of sovereignty in *Leviathan* whereas Christopher Trigg (2018) replies that Hobbes' demystification of the political theology of sovereignty actually provides the basis for a critique of drone warfare. It will be my own, more specific, contention that Hobbes' account of the sovereign punishment of citizens represents a theoretical precursor for Chamayou's account of drone warfare as a form of military violence waged unilaterally upon foreign enemies. To be sure, Hobbes always distinguishes between the legal status of the subject in the commonwealth and the enemy in warfare and between the rules of civil punishment and military conflict more widely: a civil subject always possesses some rights – the right to a public trial, proportionate punishment and so on – whereas the military enemy is absolutely exposed to sovereign violence (Holmes 2010). However, as Banu Bargu has powerfully demonstrated, the border between subject and enemy – civil and martial law – remains remarkably porous in Hobbes's political theory (Bargu 2014). If Hobbes' theory of authorization insists that every subject authorizes their own potential death at the hands of their sovereign (Hobbes 1991: 210) – regardless of their own innocence or guilt – then the subject and the enemy, war and crime, lawful punishment and unlimited hostility begin to (quite literally) bleed into one another. What kind of sovereign 'cut' or decision turns someone from a citizen to be protected into an enemy who can be killed?

To decide who is a criminal and who is not, the Hobbesian sovereign deploys a strategic calculus which pre-figures the logic of 'pre-emptive anticipation' deployed by Chamayou's drone operator (Chamayou 2015: 43). It is Chamayou's argument, recall, that drone warfare is not simply a question of identifying and neutralizing present threats but of predicting, preventing and pre-emptively foreclosing upon future ones. Accordingly, drone theory is a kind of actuarial futurology which is constantly calculating and deciding between rival possible futures: who to kill and who not to kill, how many killings are enough, what will be the consequences if we do kill and if we do not. Yet, he concludes, this theory of pre-emption operates on such a fragile epistemology – because who can really predict future threats with 100% accuracy? – that it does not so much prevent indiscriminate violence as guarantee it. If Chamayou's

critique focuses largely on the contemporary technological context of pre-emptive anticipation – algorithms, data fusion, pattern recognition and so on – Bargu shows how Hobbes’ theory of punishment itself pre-empts this logic of so-called pre-emptive violence. In Chapter 21, ‘Of the Liberty of Subjects’, for example, Hobbes gives another ancient example of the sovereign’s right to punish guilty and innocent subjects alike with impunity – Ancient Greek ostracism – which anticipates pre-emptive anticipation itself: ‘the people of *Athens*, when they banished the most potent of their Commonwealth for ten years, thought they committed no Injustice; and yet they never questioned what crime he had done, but what hurt he would doe’ (Hobbes 1996: 148).

For Hobbes, Athenian ostracism – and the theory of sovereign punishment for which it stands as an historical example – is conceived as what we would today call an essentially *preventative* measure: ‘they never questioned what crime he had done’, he insists, ‘but what hurt he would doe’. It is ‘predicated on the calculation of potential, not actual, hurt’, Bargu argues, which is directed not at the individual citizen but ‘at the commonwealth as a whole’ (Bargu 2014: 53). According to this future anterior logic, punishment ceases to be a retrospective act of retribution for an actual transgression of the law and becomes a kind of pre-emptive or preventative strike against a predicted future crime. If an innocent subject can be legally punished or killed for a ‘crime’ that they have not (yet) committed, then sovereign punishment clearly begins to resemble the pre-emptive, extra-judicial acts of absolute hostility waged which are permissible against a present or future enemy in modern warfare (Bargu 2014: 53). In any event, Hobbes recognizes that the end result of both sovereign punishment and military killing is the same, namely, the normalization of totally indiscriminate violence: ‘nay, they commanded the banishment of they knew not whom’ (Hobbes 1996: 148).

In many ways, Hobbes’ theory of punishment thus prefigures what Chamayou and others posit as the signature of drone warfare: the expansion of a well-defined legal category – whether the criminal or the enemy combatant – to the point where it becomes a kind of empty or virtual placeholder (Gregory 2007; Kahn 2013; Chamayou 2015). It establishes a *continuity* – both in fact and by right – between the citizen and the enemy. As Bargu argues, what begins as the punishment of a subject who has

committed a crime inexorably slides into war waged against an enemy: ‘The possibility of being subject to punishment is therefore ever present – certainly in the case that the subject disobeys or breaches the law, but also in the event that the sovereign considers the subject to present a *potential* harm to the commonwealth’ (Bargu 2014: 53). To put it simply, Hobbes’ apology for the right to punish effectively installs a virtual or potential ‘enemy’ at the heart of every subject which – entirely willingly and voluntarily – exposes them to death at the hands of their sovereign at any point whatsoever in their lives. If this becoming-enemy of the subject or citizen obviously has many political, philosophical and military repercussions, it is also possible to see it as one of the theoretical paradigms of the state of exception between the domestic citizen and the foreign enemy – punishment and killing, crime and war – in which the drone operates today. In the figure of the civil drone victim – killed by deadly or lethal force – we arguably face the modern descendent of the Hobbesian ‘citizen enemy’ punished to the death.

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In drawing this essay to a close, I now return to the Micah Johnson killing by Dallas police in 2016. It is possible to place the Johnson case – and the phenomenon of civil drone strikes more generally – within the context of a wider debate about the convergence of civil and martial law in drone warfare. As we have already hinted, many political theorists now see a certain continuum, rather than a divisive break, between policiary and military logics at work in the drone (see Walzer 2007; Kahn 2013; Mohn 2013; Davis 2018). To put it in Chamayou’s own words, drone theory is ‘a curious legal hybrid’ which occupies a grey zone between warfare and policing, counter-insurgency and counter-terrorism, the military-political attempt to ‘win hearts and minds’ and the policiary apprehension and elimination of criminals (Chamayou 2015: 172). Yet, it is again possible to see what we might call a ‘liberal’ residuum within Chamayou’s drone theory here, which leads him to occlude or cover over the violence inherent in the formation of the civil order itself. If Chamayou and many other contemporary security theorists tend to see the hybridization of the civil and the military in drone theory as an essentially new and illegitimate conflation of two different legal domains – which

results in either the militarization of the domestic sphere (Balko 2014) or, vice versa, the domestication of the battle space (Gregory 2011) – what I am arguing here is that it is the effect of a much older politico-military aporia that (as we have seen) can be traced back to the origin of the modern civil state itself. In conclusion, then, I re-read the Johnson case via the lens of Hobbes’ social contract theory and, more controversially, via the sacrificial paradigm that founds Hobbes’ theory of punishment. What if this civil drone strike is less a case of war without sacrifice (Chamayou 2015: 181) than of something closer to sacrifice without war?

To be sure, Chamayou’s focus in *Drone Theory* is almost exclusively on drone warfare – and his study obviously predates the Johnson case – but it still provides enough grounds for speculating what his response to the rise of the civil drone strike might be. It is revealing, for instance, that he rejects the policiary rationale of drone warfare on the basis that the civil principle of deadly force is incompatible with drone use in battle. As legal theorist Laurie Blank (whose work is cited by Chamayou) argues, police can only use lethal force under exceptional conditions which do not pertain in warfare: a suspect must pose a threat that is ‘instant, overwhelming, leaving no choice of means, and no moment of deliberation’ and any killing that does respect these conditions is an ‘extra-judicial execution’ (Blank 2012: 1659, 1668). For Chamayou, any drone operator who seeks to justify a drone strike in warfare as an exercise of policiary deadly force would thus be committing a category error:

It is more or less as if a police officer who has unjustifiably killed someone tries to exonerate himself by pointing out that he was careful to conform with the principles of distinction and proportionality that apply in armed warfare (Chamayou 2015: 169).

If Chamayou’s analogy takes for granted the falsity of the equivalence between deadly force and drone warfare, it could be argued that this conclusion has very quickly been overtaken by events: what the Johnson case now proves is that the phenomenon of civil drone strikes carried out under the principle of deadly force exist not only in fact but arguably also by right. In Dallas Police chief David Brown’s retrospective justification of the Johnson killing as an exercise of deadly force, for example, we can also begin to detect the shadow of the military justification of drone warfare as a risk-free or ‘humanitarian’ weapon: ‘We saw no other option but to use our bomb robot’,

Brown argued, 'other options would have exposed our officers to grave danger' (Graham 2016).

For my own purposes, the Johnson case is more productively read neither in strictly civil or martial terms – nor even as some illegitimate hybrid of the two – but as the logical outcome of the politico-military aporia which resides at the heart of Hobbes' theory of punishment: every citizen is exposed to extra-judicial sovereign punishment and killing if the 'good' of the state demands it. It is not, of course, my intention here to imply that there was no contingency whatsoever at work in the Dallas Police's decision to kill Johnson in this way – on the contrary there was undoubtedly a large element of on-the-ground improvisation on their part – but rather to demarcate the larger juridico-political perimeters (or lack thereof) within which such contingent and improvisatory decisions become thinkable and actionable. As we have seen, Chamayou claims that drone warfare offers an apparently bloodless solution to the contradiction between protection of life and obedience to the death at the heart of the social contract - a form of killing without dying – but arguably the Johnson case might be read as constituting something closer to that contradiction's bloody explosion where protection and obedience, killing and dying, leak into one another. To fulfil its mission of protecting the populace from real and present threats, Seth W. Stoughton argues the police must recognize that, where possible, they have a duty to protect both victim *and* aggressor alike: 'That core mission, as difficult as it is to explain sometimes, includes protecting some people who do some bad things. It includes not using lethal force when it's possible to not' (Graham 2015). If Stoughton is obviously correct to remind us that Dallas police had to weigh their right to kill Johnson as a threat to the populace against their duty to protect him as a member of that same populace before taking the decision to act, it is possible to argue that there is an even more disturbing excluded middle in this stark binary choice between protection and killing. What if an individual life can be physically destroyed *in order to* protect the political life of the population to which they *simultaneously* belong? In one and the same body, life and death, protection and killing, citizen and enemy, coincide: Johnson was killed to protect him from himself.

In many ways, then, the Micah Johnson killing by Dallas police in 2016 ironically returns us to what Chamayou calls the sacrificial paradigm at the heart of social

contract theory which drone warfare (supposedly at least) renders technologically obsolete: I must promise to give up my own physical life if it proves necessary to the political life of the state. It is a disturbing constant of modern social contract theory, we have argued, that the citizen is deemed to be author of their own deaths at the hands of the state whether in peace or in war: ‘it is in order that we may not fall victims to an assassin that we consent to die if we ourselves turn assassins’ (Rousseau 2003: 64). After all, it is the sovereign ‘People’ themselves – via their appointed representatives on the US Supreme Court in the 1985 case of *Tennessee versus Garner* – who ultimately authorized the state’s right to use deadly force against citizens like Johnson. To pursue this – quite literally fatal – logic to its conclusion, Micah Johnson and every other victim of state killing could even perversely be said to be their *own* killers: what we call sovereign punishment is not a real act of killing carried out by the state but, once again, an artificial act of self-killing or suicide carried out by the subject via the machine of the state. If every subject authorizes their sovereign to kill them at any point, then it perhaps becomes possible to speak of what legal theorist Paul W. Kahn has called a sacrificial or martyrological logic at the heart of modern liberalism itself even in the apparently sacrifice-free age of the drone: ‘anyone can be called upon to defend the state with his life’ (Kahn 2011: 157). In his final hours, Micah Johnson allegedly sought to script his coming death as an act of political martyrdom (Howell 2016), but, according to the logic unpacked in this essay, we might wonder whether he was already a martyr from the moment of his birth: the social contract is a very literal kind of mortgage (*mort-gage*, a promise to the death) written in the blood of the citizen.⁵

In this essay, I have sought to offer a genealogy of drone theory which grounds it in, and returns it to, the foundational violence of the modern liberal state itself. It is the bloody primal scene of liberalism that becomes the vantage point not only for a new deconstruction of the classical opposition between civil and martial power but also of the much-vaunted liberal myth of the drone itself – and arguably air power more widely – as the ultimate ‘humanitarian’ weapon. To trace the origins of drone theory

back to Hobbes' theory of sovereign punishment is thus, I think, to begin to answer Mark Neocleous's call for 'a critical theory of state power that assumes that war and police are *always already* together; war and police as predicative on one another; war and police not as distinct institutions ("the military" and "the police", which then raises rather pointless questions about how these institutions relate to each other, how they overlap, how they ape each other, how they are becoming blurred) but as *processes* working in conjunction as state power' (Neocleous 2013: 587). If Hobbes' account of state power is something like the modern 'origin' of this violent politico-military nexus, then a 'critical theory of state power' would thus need to track the co-evolution or co-becoming of police and military power as deadly forces through a series of historical sites and figures which are in process long before the – allegedly decisive – invention of what Neocleous calls air power. What if the 'meaningful concept of the "civilian"' (Neocleous 2013: 590) always already contained the juridico-political seeds of its own (auto-)destruction long before ~~before~~ air power came along to empirically annihilate it?

To pursue this genealogy, which I do not have the space to do here, I would want to unpack the pre-history of the right of deadly force which led to the Johnson killing. It is now accepted that this 'exceptional' police power has become normalized in the US, but what is less recognized is that such normalization proceeds not from deviations from the law but from a fatal ambiguity in the legal concept itself. As Amnesty International observes, all 50 states in the US fail to comply with international law on the use of lethal force; 13 do not comply with the lower standards set by US law and 9 have no laws on it at all. For police in certain states, deadly force is permitted not only to neutralize an imminent threat to life but to "suppress opposition to an arrest"; to arrest someone for a "suspected felony"; to "suppress a riot or mutiny"; or for certain crimes such as burglary' (Amnesty International 2015). If civil concepts like deadly force bleed into military concepts like extra-judicial killing or summary execution, it is not because of some fatal exception to the norm but because of the originary exceptionality of the norm *itself* in which police and military, citizen and enemy, civil and martial space coincide. In its very recourse to arbitrary violence, police use of deadly force (re-) produces the foundational violence of the modern state.

If all sovereign force is deadly force, if every citizen is originally and absolutely exposed to the threat of death at the hands of the sovereign, and if all sovereign violence carries within it the memory of its bloody extra-judicial origins, I nonetheless maintain that the modern phenomenon of the civil or police drone strike against a domestic citizen still occupies a privileged position in this long narrative because (as we have seen) of the special claim that this remote-controlled weapon, uniquely and definitively, cuts the umbilical cord that has always connected killing and dying. To expose this 'humanitarian' claim as the liberal fiction that it is, I have argued that the drone never was and can never be a riskless or bloodless form of killing – not simply because of the (now very well-rehearsed) legal, military and ethical questions and problems set out at length in drone theory over the last couple of decades (Kahn 2002; Walzer 2007; Gregory 2011; Blank 2012; Kahn 2013; Chamayou 2015) – but, more precisely, because of what we have seen to be the sacrificial desideratum at the core of liberalism itself. In the Johnson case, the 'citizen' is always already both police and criminal, killer and victim, subject and object of deadly force at one and the same time before they are ever required to go to war.

In conclusion, though, I return to the question with which we began: what are the theoretical origins of the drone? To read drone theory through a Hobbesian optic, we can perhaps begin to offer a new answer to this question which challenges not only the liberal humanitarian fiction of the drone but also what we might call the liberal humanitarian fiction that is the modern concept of the citizen. It has been the hypothesis of this essay that social contract theory locates the origin of sovereign violence in what it presents as the citizen's own necessary act of sacrifice. Accordingly, what Chamayou's drone theory presents as a sudden, extra-judicial act of killing which only befalls the enemy from without is revealed to be a – structural, automatic and artificial – act of self-killing allegedly authorized by the citizen themselves and carried out through the medium of the state. If all sovereign killing is artificial self-killing according to this sacrificial paradigm, if the citizen automatically authorizes their own destruction, if this self-destruction is pre-programmed or hard-wired into the modern theory of citizenship as such, then perhaps the relationship between the citizen and the drone is even more disturbingly intimate than we know. For social contract theory from Hobbes to Rousseau, the modern citizen is itself a species of killing machine which can be remotely activated by the sovereign at any point in its life to use deadly

force on itself or others (Bradley 2011). In our late Hobbesian political imaginary, the first drone is the citizen themselves.

Works Cited

- Agamben, G (1998) *Homo Sacer: Sovereign Power and Bare Life*, trans. by D Heller-Roazen. Stanford, CA: Stanford University Press.
- Amnesty International (2015) Deadly force: Police use of lethal force in the United States <https://www.amnestyusa.org/reports/deadly-force-police-use-of-lethal-force-in-the-united-states/> (accessed 23.05.18)
- Balko, R (2014) *Rise of the Warrior Cop: The Militarization of America's Police Forces*. New York: PublicAffairs.
- Bargu, B (2014) 'Sovereignty as erasure: Rethinking enforced disappearances'. *Qui Parle: Critical Humanities and Social Sciences* 23 (1): 35-75.
- Blank, LR (2012) 'Targeted strikes: The consequences of blurring the armed conflict and Self-Defense Justifications'. *William Mitchell Law Review* 38.
- Bradley A (2011) *Originary Technicity: The Theory of Technology from Marx to Derrida*. London: Palgrave.
- Bradley, A (2017) 'Let the lord the judge be judge: Hobbes and Locke on Jephthah, liberalism and martyrdom'. *Law, Culture and the Humanities* May 16, 2017. DOI: 10.1177/1743872117708352.
- Bradley, A (2019a) '*Jus puniendi*: La questione della pena in Foucault, Agamben ed Esposito' in *Teologie e politica* ed. by Elettra Stimilli. Roma: Quodlibet.
- Bradley, A (2019b) *Unbearable Life: A Genealogy of Political Erasure*. New York: Columbia University Press.
- Chamayou, G (2015) *Drone Theory* tr. by Janet Lloyd. London: Penguin.
- Davis, O (2018), 'Theorizing the advent of weaponized drones as techniques of domestic paramilitary policing'. *Security Dialogue* (forthcoming).
- Esposito, R (2008) *Bios: Biopolitics and Philosophy* tr. by T Campbell. Minneapolis: University of Minnesota Press.
- Foucault, M (2003) '*Society Must Be Defended*': *Lectures at the Collège de France 1975-6* tr. David Macey. New York: Picador.

- Graham, DA (2016) 'The Dallas shooting and the advent of police killer robots', *The Atlantic* <http://www.theatlantic.com/news/archive/2016/07/dallas-police-robot/490478/> (accessed 06.04.17).
- Gregory, D (2011) 'The everywhere war'. *The Geographical Journal* 177 (3): 238–250
- Hampton, J (1986) *Hobbes and the Social Contract Tradition*. Cambridge: Cambridge University Press.
- Hobbes, Thomas (1996) *Leviathan, or The Matter, Forme and Power of a Common Wealth Ecclesiasticall and Civil* ed. R Tuck, Cambridge Texts in the History of Political Thought. Cambridge: Cambridge University Press.
- Holmes, S (2010) "Does Hobbes have a concept of the enemy?". *Critical Review of International Social and Political Philosophy* 13 (2–3): 371–89.
- Howell, R (2016) 'Red, black and green: From Marcus Garvey to Micah Johnson' <http://www.thedailybeast.com/articles/2016/07/14/the-flag-dallas-shooter-micah-johnson-disgraced.html> (accessed 06.04.17)
- Hüning, D (2007) 'Hobbes on the right to punish' in *The Cambridge Companion to Hobbes' Leviathan* ed. by Patricia Springborg. Cambridge: Cambridge University Press, pp. 217-40
- Kahn, PW (2002), 'The paradox of riskless warfare'. *Philosophy and Public Policy Political Quarterly* 22: 3 http://digitalcommons.law.yale.edu/fss_papers/326/ (accessed 16.04.17)
- Kahn, PW (2011) *Political Theology: Four New Chapters on the Concept of Sovereignty*. New York: Columbia University Press.
- Kahn, PW (2013) 'Imagining warfare', *European Journal of International Law* 24 (1): 199-226.
- Neocleous, M (2013) 'Air power as police power', *Environment and Planning D: Society and Space* 31 (2013), 578-93
- Rousseau, J-J (1997) *The Social Contract and Other Later Political Writings* ed. by Victor Gourevitch. Cambridge Texts in the History of Political Thought. Cambridge: Cambridge University Press
- Schrock, TS (1991) 'The rights to punish and resist punishment in Hobbes's *Leviathan*'. *The Western Political Quarterly*, 44 (4): 853-890.
- Shaw, Ian GR. (2016) *Predator Empire: Drone Warfare and Full Spectrum Dominance*. Minneapolis: Minnesota University Press.

Trigg, Christopher (2018) 'Drones, Hobbes and liberal enchantment'. *Political Theology*. DOI: 10.1080/1462317X.2018.1440158

Wall, T (2013) 'Unmanning the police manhunt: Vertical security as pacification'. *Socialist Studies / Études socialistes*. 9 (2): 32-56.

Wall, T (2016) 'Ordinary emergency: Drones, police, and geographies of legal terror'. *Antipode: A Radical Journey of Geography*, 48(4): 1122–1139.

Walzer, M (2007) 'The argument about humanitarian intervention' in *Thinking Politically: Essays in Political Theory*. New Haven: Yale University Press.

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² To summarize his powerful argument, Davis reads the Micah Xavier Johnson case as a symptom of the 'creeping weaponization' of domestic policing in the form of the routine deployment of 'non-lethal' weapons. If I choose to read the Johnson case in terms of a much longer political philosophical history, rather than as something absolutely new, I would not see our positions as mutually exclusive: I agree with Davis that modern western citizens self-evidently experience the phenomenon of civil drone use as totally exceptional, even if it has clear legal and philosophical precedents. In response to Davis' argument that Hobbes' theory of self-authorization – where the citizen themselves authorizes the sovereign to kill them – is more applicable to a domestic than a military context, I would only say that Hobbes (and other social contract theorists after him such as Rousseau) both seem to apply this logic of self-authorization equally to warfare and civil punishment alike.

³ For Chamayou, the right to kill with impunity in warfare depends on what he calls the 'legal fiction' of reciprocal or mutual killing: 'The right to kill with impunity in war thus seems to be based upon a tacit structural premise: if one has the right to kill without crime, it is because that right is granted mutually. If I agree to confer upon another the right to kill me or my people with impunity, this is because I count on benefiting from the same exemption if I myself kill. The decriminalization of warrior homicide presupposes a structure of reciprocity. The killing is allowed only because it

is a matter of *killing each other*' (Chamayou 2015: 161). In the absence of any concomitant risk of death, drone killing effectively becomes murder with impunity.

⁴ If Hobbes' right to punish has undoubtedly provoked considerable debate amongst scholars – particularly around the question of its alleged origins – it is generally agreed that the English philosopher sets no legal (as opposed to religious or natural) limit upon the sovereign's right to inflict violence as he chooses: a sovereign who kills an innocent may well commit a sin against natural and divine law, but not a crime against positive law. In Dieter Hüning's account, 'whoever at the command of his sovereign kills an innocent person, does not commit a crime, precisely because he does not have the authority to judge for himself between a just and an unjust action, a matter that only the sovereign has the power to decide' (Hüning 2007: 221).

⁵ In the hours he spent cornered in the community college, the seriously wounded Johnson wrote the letters 'R' and 'B' in his own blood on a wall in a presumed allusion to the red, black and green colours of the Pan-African flag which was formally adopted by the Universal Negro Improvement Association (UNIA) at its New York convention on August 13, 1920 (Howell 2016).