

**Capturing the Void(ed): Muslim Detainees, Practices of Violence, and the
Politics of Seeing in Guantánamo Bay**

by

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Abstract

This dissertation explores how political and legal violence against “Muslim” subjects and bodies – specifically, male ones – are enacted, sustained, and justified. Through a conceptual argument that accounts for the ways in which “Muslimness” is constructed through and against the body, it argues that central to these processes are *visual practices*; more precisely, visual practices that operate in tandem with circuits of violence.

As a particularly visceral instantiation of these relations, an analysis of images of the Guantánamo Bay Naval Base and its detainees encapsulates the central claim of this project: that the relationship between legal and political power, violence, and specific kinds of subjects and bodies both *emerges from* and *is dependent upon* particular practices of visibility that make and unmake subjects and bodies in distinct and meaningful ways. This has implications for not only how we understand these relationships, but also in regard to how we understand the subjectivities and materialities of those who are the targets of such violent practices.

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The Prophet (ﷺ) said: He who does not thank people is not thankful to Allah

Abu Hurayrah, Kitab al-Adab (The Book of Manners)

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To the men remaining in Guantanamo. I hope one day you will be free.

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Introduction

Guantánamo Bay: “The Least Worst Place”

I would characterize Guantánamo Bay, Cuba, as the least worst place we could have selected. It has its disadvantages...however [these] seem to be modest relative to the alternatives.¹

Donald Rumsfeld, U.S. Secretary of State, December 27, 2001

In the wake of the September 11th attacks on New York City and Washington D.C., then-U.S. President George W. Bush issued the “Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism”² Military Order. The Order established the legal and political parameters within which the detention of prisoners in the “war on terror” would unfold, and was remarkable both in its language and the scope of powers it conferred. Declaring that it was “not practicable to apply in military commissions under this order the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States district courts”³, it was simultaneously “broad and ambiguous” and “recognized no legal or procedural checks on the president’s proclaimed powers.”⁴ Its extra-legal nature functioned also to frame prisoners apprehended in the “war on terror” as particular kinds of *extra-legal*

¹ “Destination Guantanamo Bay”, BBC News, December 28, 2001, accessed August 02, 2019, <http://news.bbc.co.uk/2/hi/americas/1731704.stm>.

² U.S. President, “Presidential Military Order of November 13, 2001, Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism”, *Federal Register* 66, no. 222 (November 16, 2001), <https://www.govinfo.gov/content/pkg/FR-2001-11-16/pdf/01-28904.pdf>.

³ “Presidential Military Order of November 13, 2001, Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism.”

⁴ Karen J. Greenberg, *The Least Worst Place: Guantánamo’s First 100 Days* (New York, Oxford University Press, 2010), 3.

subjects, and necessitated a space of detention that would be similarly outside of the boundaries of normative law – as then-Secretary of Defence Donald Rumsfeld stated, the need was to find “the legal equivalent to outer space.”⁵ Focus soon narrowed to the American military base located in Guantánamo Bay, Cuba. The space seemed ideal – indeed, it seemed uniquely suited – to meet this need, and Guantánamo was quickly established as the ultimate “outer limits” location needed to house the Muslim men who would come to populate the detention camp. Known as “detainees”, these men were, and continue to be, framed as both subjects of the state and as outside of the bounds of legal and political norms.

Over the last eighteen years, the detention camp established in Guantánamo Bay for Muslim men detained in the “war on terror” has held a documented seven-hundred and eighty detainees.⁶ These men hail from mainly East and Western Asian countries, and most were renditioned or transported to the camp in the initial stages of the “war on terror” under accusations of terrorism or terrorism-related activities. By and large, Guantánamo detainees were and continue to be held without trial or charge; as of this writing, only eight have been convicted of terrorism-related charges by Guantánamo’s military commissions (although four of these convictions have been overturned either completely or partially by the federal courts).⁷ In fact, more detainees have died in Guantánamo than have faced trial: to date, nine detainees have died, including

⁵ Greenberg, *The Least Worst Place*, 6.

⁶ “Guantánamo by the Numbers”, Human Rights First, October 10, 2018, accessed May 08, 2019, <https://humanrightsfirst.org/resources/guantanamo-numbers>.

⁷ “Guantánamo by the Numbers.”

six from suspected suicide. For those still living, detainees are subjected to an indefinite detention regime, a severe curtailment of legal rights, and interrogation techniques that have been deemed torture by various human rights and legal organizations. These include: sleep deprivation, stress positions, extended solitary confinement, and force-feeding; being threatened with death, with military dogs, and with physical and sexual violence; and exposure to prolonged periods of extreme heat, cold, and noise.

While seven-hundred and thirty-one prisoners have been transferred from the camp to either their home or third countries, and despite promises made by President Obama during his two terms in office to shutter it, Guantánamo remains open. As of 2019, and as far as government sources have confirmed, the camp contains forty detainees⁸, a number of whom are deemed “high-value”. This designation means that, because of the extent of their criminality as alleged senior members of terrorist organizations, these men will likely never leave the camp alive.

Despite the ignominious shadow the camp has cast over the rule of law and democratic processes in post-9/11 America, the furor over Guantánamo Bay, its detainees, and their treatment, seem to have receded somewhat from public concern. While it is difficult to quantify this sentiment, especially as yearly protests against the camp persist and as occasional news media stories about it continue to circulate, it is perhaps less a discernable fact than a reflection of the ways in which Guantánamo has become a permanent fixture in the background

⁸“Q&A: Guantánamo Bay, US Detentions, and the Trump Administration”, *Human Rights Watch* June 27, 2018, accessed August 04, 2019, <https://www.hrw.org/news/2017/05/04/qa-Guantánamo-bay-us-detentions-and-trump-administration>.

of American political life.⁹ Despite, and perhaps as a result of, coming to terms with Guantánamo (however uneasy those terms may be), the camp continues to bear an enduring, albeit muted, witness to the new legal and political norms that have been borne in its wake. These norms are largely built upon shifting standards as to the extent to which the state and law may collude to create legalized categories and spaces of non-legality, equivocations of legal personhood, and rationalizations of specific forms of state violence. And so while Guantánamo has been described by many scholars as a legal black hole¹⁰, it is as much a space of meaning as it is of erasure¹¹: as much a space of legal and socio-political making as of un-making, wherein “detainees”, as both (il)legal subjects and as material bodies *made subject* to particular forms of violence, are both created and cast into a void. It is also as much a space of political and legal disappearance as it is a deeply visible and visual phenomenon. It is at this juncture of meaning and non-meaning, of presence and absence, of invisibility and visibility, and of subjects and spectres, that this dissertation proceeds.

i. Research Approach & Conceptual Frameworks

In 2002, after days of resisting media efforts to gain access to Guantánamo before the first detainees were set to arrive, the Pentagon eventually agreed to

⁹ See Adam Hudson, “2020 Candidates Are Ignoring Guantánamo”, Truthout.org, July 30, 2019, accessed July 31, 2019, <https://truthout.org/articles/the-2020-candidates-are-ignoring-guantanamo/>.

¹⁰ The term “legal black hole”, as it refers to Guantánamo, was first coined by Johan Steyn. See Johan Steyn, “Guantanamo Bay: The Legal Black Hole”, *The International and Comparative Law Quarterly* 53, no. 1 (2004): 1-15.

¹¹ See Fleur Johns, “Guantánamo Bay and the annihilation of the exception”, *European Journal of International Law* 16, no. 4 (2005): 613-635.

allow limited and strictly regulated media access to the camp. Journalist Karen Greenberg described the initial reactions of news media who were waiting near the airfield to observe the arrival of these men:

Before the detainees emerged from the plane, troops aboard the plane lugged out a room-size metal container. Press observers gasped, thinking ... that perhaps it was a type of cell—that perhaps the likes of Hannibal Lecter were on board, unable to be unrestrained and unboxed even for a moment. As it turned out, it was only an in-flight latrine. When the detainees finally did appear, they looked like anything but the ‘worst of the worst’ that ... Bush’s press secretary Ari Fleischer had proclaimed them to be. Disheveled and frail, wobbly from their long trip, stinking of urine and wearing blackened goggles, earmuffs, orange socks, and knitted caps, they looked like aliens perhaps but not like purveyors of danger and destruction. The spectacle shocked the guards on the ground. ‘We didn’t know they would be like that—hooded and goggled—they didn’t tell us they were coming in, you know, sensory deprivation.’ Nor did they know that some of the detainees would be so weak they had to be carried off the plane between two guards—‘105-pound guys,’ as one onlooker put it, “and the Marines just lifting [them] like . . . a bag of groceries.’ The Marines lifted the detainees’ earmuffs as they entered the bus, ‘You are now the property of the U.S. Marine Corps,’ [they] shouted in English’.¹²

¹² Greenberg, *The Least Worst Place*, 76.



Initial prisoner transport to Guantánamo Bay, Cuba. This image was leaked to international news agencies in 2002 by an anonymous source. Photo Credit: Shutterstock

In this dissertation I explore how political and legal violence(s) against male “Muslim” bodies are enacted, sustained, and justified. In doing so, I focus on an analysis of images of the camp and its detainees in order to draw out the multiple and complex processes that mark certain bodies as *subject to* and *subjects of* state violence. While these processes may indeed include the erasure of a meaningful legal personhood, overt forms of violence, and the “legal equivalent to outer space”, they also encompass and subsume a multitude of tools and practices, particularly those that lend themselves to affixing meaning. I argue that in Guantánamo, rationales and processes of state violence *emerge from, are dependent upon, and are productive of* visual practices. This argument has broader implications for further understanding the entangled, complex, and subtle relationship extra-ordinary state violence holds to not only the visual, but also to

the range of quotidian, seemingly mundane, and yet deeply implicated practices it relies upon.

I understand images as productive, and as *doing* certain things. In Guantánamo, they play a key role in legal and political apparatuses of state violence and in the construction of certain kinds of subjects and bodies – in how, why, and upon what terms they are seen, understood, and encountered. Through a conceptual argument that accounts for the ways in which the “Muslim” is both constructed and encountered as an intensely *material* and *materialized* figure, I further argue that visual practices work to surface bodies in particularly visceral ways. This is especially apparent for those who are encountered as simultaneously subject and body, where abstractions of religion, ideology, and intention “are folded into the intimacies”¹³ and shape the material boundaries and vulnerabilities of the body. In doing so, my analysis engages with research located at the cross-section of studies that speak to the social, political, and ontological forces that constitute the male Muslim body, as it is this subject that is the primary target of state violence in the “war on terror”, and it is this body that fill its spaces of detention and through which these abstractions and enfoldings take place and are acted upon.

As Susan Sontag notes, when it comes to remembering, the photograph has the deeper bite.¹⁴ The meanings we affix to the act of remembering can be extended to include its underlying and attendant impulses: to ponder, to apprehend, to memorialize, to conjure, to bring forth. In all of these instances, the

¹³Derek Gregory, “The black flag: Guantánamo bay and the space of exception”, *Geografiska Annaler: Series B, Human Geography* 88, no. 4 (2006): 415.

¹⁴Susan Sontag, *Regarding the Pain of Others* (New York: Picador, 2003), 15.

visual has a central role in shaping knowledge – knowledge not only of what or who is contained within a specific frame, or framing, but also of those elements which delimit the space(s) between and within which both the apprehender and the apprehended co-exist. In other words, the visual is a deeply relational phenomenon. Indeed, it not only shapes relations – it is also a relation in and of itself. It is also, then, closely tied to power, to those practices and forces that order both visual and conceptual fields and that mediate the legibility or illegibility of subjects, bodies, events, and acts, and which, in the process, reaffirm their meaning-making authority. The visual is therefore also embedded within “a complex system of permission and prohibition, punctuated alternately by apparitions and hysterical blindness.”¹⁵ Any consideration of visual practices, wherein both “presence” and “absence”, and “seeing” and “blindness” are constituent and productive relations, must therefore take into account both how images are constructed, framed, and channeled through and by flows of power and authority, as well as how these flows depend as much on making visible as they do on occluding from sight. In keeping, another central premise of this dissertation is that it is imperative to “cultivate a proper understanding of the visual codes that are operating in [] meaning-making process[es]”, and that “the stakes involved in undertaking this task are greatest when it comes to law, for that is where power and meaning converge.”¹⁶

¹⁵ Avery F. Gordon, *Ghostly Matters: Haunting and the Sociological Imagination* (Minneapolis: University of Minnesota Press, 1997), 17.

¹⁶ Richard K. Sherwin, “Introduction: Law, Culture and Visual Studies”, in *Law, Culture, and Visual Studies*, eds. Richard K. Sherwin and Anne Wagner (New York: Springer, 2014), xxxvi

Moreover, when it comes to the specific role images play in the law, this function extends beyond the merely representational. In legal settings, images are often taken as incontrovertible evidence of something, as they “purport to tell the truth.”¹⁷ The “evidential force” of the image is also embedded in the social and semiotic processes at work in photographs, a function that takes on sharper edges when considered in the context of law’s categorizing and ordering work.¹⁸ Therefore, as it pertains to Guantánamo, it is not only the material content of images that figure greatly in forming an understanding and ordering of this space and of detainees – this authority is also achieved via what they call forth and conjure and what they keep from sight, in their representational force, and even within their unruly trajectories, as they bleed from the confines of the state, still bearing traces of their origins and moving fitfully through political, legal, and public spaces.

Throughout this dissertation, I place Guantánamo’s images in conversation with legal decisions and court cases pertaining to the camp. The existing legal record around Guantánamo is extensive, dense, and complex, and speaks to domestic legal procedures and standards, to both military law and international law, and to such issues as the separation of powers between federal courts and political branches. It is appropriate to read these legal artifacts through a critical lens, to “expose the assumptions that underlie judicial and scholarly resolution of ... issues, question the presuppositions about law and

¹⁷ Katherine Biber, *Captive Images: Race, Crime, Photography* (New York: Routledge, 2007), 5.

¹⁸ John Tagg, *The Burden of Representation: Essays on Photographies and Histories* (London: Macmillan, 1988), 4. Tagg draws upon Roland Barthes’ notion of the “evidential force” of the image. See Roland Barthes, *Camera Lucida: Reflections on Photography* (New York: Hill and Wang, 2010).

society and those whose intellectual product is being analyzed and examine the effects these products have in shaping legal and social consequences.”¹⁹

However, while attending to the discursive work contained within legal decision-making, and to its embeddedness within social and political relations, I also choose to read these decisions as legal acts that *do* and *produce* certain things by virtue of their facticity. This is not to flatten law, nor is to uncomplicate it. Rather, nuance is read into and through the effects that are produced by legal decision-making around the camp.

The important role the visual has in shaping knowledge, both legal and otherwise, means that while images offer particularly generative materials for analysis, paying attention to their “granular connections, influences, and mutual imbrication[s] [with] the discourses of law”²⁰ can allow for an unearthing and examination of the distinct power relations that shape Guantánamo’s visual and legal fields. These power relations not only quite literally censor and mediate what or who is allowed to be seen or not seen, but are also central to the making and unmaking of legal subjectivity and material embodiment. The unique persistence of images when it comes to these relations should not be taken as an indication of their static nature. I approach Guantánamo’s images as the material through which varying interpretations can be sustained, while also containing interpretative force in and of themselves. So while these images were, and are, produced for particular purposes and capture a very specific, loaded, figure (that of the Muslim, male,

¹⁹ David M. Trubek, “Where the Action Is: Critical Legal Studies and Empiricism”, *Stanford Law Review* 36, no.1/2 (1984): 575, 588-89.

²⁰ Desmond Manderson, “Introduction: Imaginal Law”, in *Law and the Visual: Representations, Technologies, and Critique*, ed. Desmond Manderson (Toronto, University of Toronto Press, 2018), 3-20.

“terrorist”), they also contain layers of intentions and potentialities, as they pass through military censors, are subject to further editing by media sources, enter the public domain, and become valuable visual evidence for advocacy groups.

ii. Methodological Approach and Framework

A prevailing sentiment in visual studies is that “images” are themselves an unsettled notion. The proliferation of visual materials that flood our socio-cultural and political spaces since the advent of photographic technologies has

brought to the fore the fact that we basically do not have a clear account of what an image is to begin with and that disciplines historically bound to images, like art history and semiotics, either relate only to what is believed to be a specific kind of images or deal with them necessarily as signs and representations.²¹

For theorists of critical visual culture, images can be understood as “complex figural artifacts [and] stimulants to visual experiences.”²² While they can be an “illustration of arguments made discursively”, they can also be analytically approached both “on their own terms” and with regard to their specific place in the field of forces that mediate and construct their apprehension.²³ In other words, images can be thought of simultaneously as discrete visual materials and as encompassing broader considerations of power relations, social practices, and visual culture.²⁴ An image can thus be a

²¹ Kresimir Purgar, “Coming to Terms with Images: Visual Studies and Beyond”, in *W.J.T. Mitchell’s Image Theory: Living Pictures*, ed. Kresimir Purgar, 59-83 (London: Taylor & Francis, 2016).

²² Martin Jay, “That Visual Turn”, *Journal of Visual Culture* 1, no. 1 (2002): 88.

²³ W.J.T. Mitchell, “Showing seeing: a critique of visual culture”, *Journal of Visual Culture* 1, no. 2 (2002): 178.

²⁴ Martin Lister and Liz Wells, “Seeing Beyond Belief: cultural studies as an approach to analysing the visual”, in *Handbook of visual analysis*, eds. Theo van Leeuwen and Carey Jewitt (London: Sage, 2004), 61-91.

photograph or a material visual representation, but also persist within the visual culture and considerations of visibility that surround it, even when “seeing is prohibited and invisibility is mandated.”²⁵

In this vein, I am not so much concerned with what images are as with what images *do*. I therefore rely on Critical Visual Analysis (CVA) as a methodology rooted in an understanding of images as visual artifacts that have both material and representational effects.²⁶ While critical visual studies allows for great methodological diversity in how images may be analyzed, CVA is a general methodological approach that focuses on an analysis of images both separately and in relation to each other, and with regards to both their material content and the ways in which they embody and circulate meanings and ways of seeing.²⁷ It also facilitates an exploration of these effects through an engagement with images “on their own terms” and with the attendant and relevant contexts surrounding their production and circulation. In enabling a critical understanding how images, as both discrete objects and in relation to other forces, enliven and reproduce certain interpretations and forms of knowledge, it also allows for an accounting of an image’s particular genealogy, and its connection, or dis-connection, to other practices and modes of representation. The use of the CVA methodology thus allows for the analyses of an image by attending to its production, “the site of the image itself”, and the “range of

²⁵ Mitchell, ‘Showing seeing’, 179.

²⁶ See Gillian Rose, *Visual Methodologies: An Introduction to the Interpretation of Visual Materials* (Los Angeles: Sage Publications, 2007).

²⁷ See John Berger, *Ways of Seeing* (London: Penguin Books, 1973).

...social and political relations, institutions, and practices that surround an image and through which it is seen and used.”²⁸

My methodological framework draws and builds upon Ann Laura Stoler’s notion of the archive. Stoler argues that archives are not just stagnant documentations (or documents) of events, people, and places. Instead, they can be thought of as processes, subject as much to the fits and starts of shifting knowledge, doubts, and uncertainties as they are to any concrete forms of knowing; “active and generative”, they also rely on and produce ontologies which are both “productive and responsive.”²⁹ An archive can thus operate as “a force field that animates political energies and expertise, that pulls on some ‘social facts’ and converts them into qualified knowledge, [and] attends to some ways of knowing while repelling and refusing others.”³⁰ Stoler’s contribution allows for an appreciation of images of Guantánamo as archival and affective materials, shaped not only by the fusing together of state and photographic perspectives, but also by the reflexive, entangled, and sometimes contradictory practices of state violence. It also provides me the framework necessary to build an archive of Guantánamo Bay’s images. The use of the possessive here, and elsewhere, is purposeful, for these are indeed not just images *of* the detention camp. They belong *to*, emerge *from*, and are embedded *within* the governing logics of this space. The purpose of creating and drawing upon this archive, following Stoler, is to extend an invitation

²⁸Rose, *Visual Methodologies*, 20.

²⁹Ann Laura Stoler, *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense* (Princeton: Princeton University Press, 2009), 4.

³⁰Stoler, *Along the Archival Grain*, 22.

to myself and to the reader to “linger over [its] repetitions and ... cadence [and] to attend to the political undertows of affective strain”³¹ that runs throughout it.

Building the Archive

My selection of images unfolds within the context of the nature of my site of inquiry. As such, it was necessary to draw heavily upon images that have been produced directly by military sources. The limitations that presented as a result of this fact were twofold: first, in selecting images, I could draw on only a few primary sources. Secondly, the distinct manner in which Guantánamo’s images were produced meant that the interpretations or meanings to be drawn from them could be constrained by the state perspective embedded within them. In other words, when images are more obviously welded to a particular point of view, as is arguably the case with state-produced images taken during times of war, they may take on especially closed aspects or meanings, narrowing the possible fields of interpretation or analysis that can be applied to them. These limitations demanded a further consideration of whether Guantánamo’s images and their fusion to state power necessarily limited the grounds of their analysis, through a closer accounting of their place among genres of state-produced photographs and war reportage.

Generally speaking, war journalism is a heavily regulated field, wherein control over who and what can be seen, or *not seen*, is to be found in the intense control of both the production and the perspective of such images. Embedded reporting, wherein journalists are allowed access to conflict sites and warzones

³¹ Anne Laura Stoler, “Archival Dis-Ease: Thinking through Colonial Ontologies”, *Communication and Critical/Cultural Studies* 7, no. 2 (2010): 215.

by travelling with and being attached to military units, means also that such images can be understood as being complicit in upholding state narratives.³² It is a practice often accompanied by the tacit understanding that the information that emerges from it must, by virtue of the means of its production, take on the perspective of the state. This does not mean, necessarily, that reporters cannot critique and/or question what is occurring in warzones. It does, however, mean that such critiques may be tempered against prioritizing access to a site of inquiry, where that access may be removed at the whim of the state. Moreover, the “taking on” of the perspective of the state can be quite literal, as the nature of embedded journalism means that journalists “travel on certain trucks, look ... only at certain scenes, and relay ... home only images and narratives of certain kinds of action.”³³

However, the ways in which Guantánamo’s images are produced means that while these images may be seen as a form of embedded reporting, they are also something separate and apart from the kinds of visual evidence of war that are produced and circulated via journalistic sources. Indeed, their uniqueness is to be found in the fact they are often not produced by journalists at all, but rather *directly* by military officers and state actors.

³² See M.F. Casper and Jeffrey T. Child, “Embedded Reporting and Audience Response: Parasocial Interaction and Perceived Realism in Embedded Reporting from the Iraq War on Television News”, in *War and the Media: Essays on News Reporting, Propoganda, and Popular Culture*, 205-222, eds. Paul M. Haridakis, Barbara S. Hugenberg, and Stanley T. Wearden (North Carolina: McFarland & Company, 2009); Julia R. Fox and Byungho Park, “The ‘I’ of Embedded Reporting: An Analysis of CNN Coverage of the ‘Shock and Awe’ Campaign”, *Journal of Broadcasting and Electronic Media* 50, no. 1 (2006): 36-51; Catherine Irwin, “Framing War: The Politics of Embedded Reporting in Brian Turner’s *Here Bullet*”, *Pacific Coast Philology* 50, no. 1 (2015): 103-126; and Michael Pfau, Michel M. Haigh, Lindsay Logsdon et al, “Embedded Reporting During the Invasion and Occupation of Iraq: How the Embedding of Journalists Affects Television News Reports”, *Journal of Broadcasting & Electronic Media* 49, no. 4 (2005): 468-487.

³³ Judith Butler, “Photography, War and Outrage”, *PMLA* 120, no. 3 (2005): 822

As has been noted, even while these images are eventually dispersed throughout news media sources, they are conceivably more tightly bound to state aims (and state violence) than even those images that are produced by journalists within strictly regulated circumstances. While the basis upon which state-mandated and regulated images are produced suggests a kind of analytic closure around how we may read Guantánamo's images, these intentions do not necessarily have to foreclose the possibility of other meanings coming to attach to them. Indeed, the constraints within which images are produced can convey much about how truth and meaning are shaped, and how the boundaries of recognizability are formed through and against the photographic frame. At the same time, these constraints do not prevent us from still taking seriously the unruly and unmanageable nature of the image. This unruliness resides in an image's content and the different interpretations that it gives rise to. It is also an effect of an image's circulation and its ability to both reproduce and *refashion* meaning, separate and apart from the conditions of its production.

While my choice of images may be limited given this particular site of inquiry, it is therefore also informed by the ways in which Guantánamo's images were also reproduced by news media outlets, published on military-run websites, and repurposed by public groups (which are then also circulated in news media). So, while Guantánamo's images may have initially been "taken" by military photographers or embedded journalists, they are made available and accessible for analysis through these multiple sites. The reproduction and circulation of these images allows for me to attend to how each site invests and frames these images with different (although often reiterative) meanings and effects. For example, as I show in Chapter 6, in their use of Guantánamo's

images, public advocacy groups have crafted their own visual archiving, chronology, and genealogy of the camp and its legal and political after-effects. Interrogating the conditions under which images of the detention camp have been produced and reproduced can also work to highlight to what extent the reproduction and recirculation of such images become technologies of state violence, rather than the mere reportage of fact.

A third limitation or challenge that arose in building this archive emerged as a result of the content of the images themselves. When it comes to images that capture abjectness or violence, visual researchers have a pressing “obligation to reflect critically on the impact of the brutal images of human suffering they foist on the public.”³⁴ We also owe our readers answers to, or at least an engagement with, the kinds of questions such images are sure to elicit: “what do we want from our audience? To shock? To evoke pity? To create ... narratives through an ‘aesthetic of misery’? What of the people whose suffering is made into a public spectacle for the sake of ...theoretical argument?”³⁵ These questions, while difficult, did not lead me to the conclusion that such images should not be shown at all. Rather, they demanded that I must be especially “attuned to the possible ‘haunting’ consequences of their production, display, and viewing.”³⁶

An important part of paying attention to both the limitations and possibilities of Guantanamo’s images is a reflexive accounting of my own methodological journey. This journey was one marked by a series of ethically

³⁴Nancy Scheper-Hughes and Philippe Bourgois, “Introduction: Making Sense of Violence”, in *Violence in War and Peace: An Anthology*, eds. Nancy Scheper-Hughes and Philippe Bourgois (Oxford: Blackwell Publishing), 26.

³⁵Scheper-Hughes and Bourgois, “Introduction: Making Sense of Violence”, 26.

³⁶Clark, “Haunted by images?”, 74.

and emotionally-charged moments, where I was faced with a reoccurring series of questions in each choice that I made: do I have an ethical obligation to the subjects of these images? What would that obligation look like in the context of Guantánamo? In choosing one image over another, what am I basing my choice on? Am I manipulating my reader by selecting images that are particularly disturbing, or those that lend themselves more readily to my arguments? Does the possibility that my description and contextualization of an image could be *otherwise* mean that my analysis is somehow less “truthful”, and therefore less valuable? Is my analysis crippled by my own personal connection to these images, a relationship that means that when I look at them, I often feel stretched beyond my capabilities as a researcher? Rather than encountering them as one among many representations of modern state violence, I often instead saw – indeed, continue to see – the messy and bloodied entanglements of history, politics, and fate that has resulted in such suffering to my community, to people I know and love, to even my own sense of what it is to be a person of faith. How should I contend with the fact that when I look at images of Guantánamo detainees, I see *them* (even when they are barely discernable), but I also see my family, my friends, members of my community – all of whom could easily, but for a few twists and turns of fate or politics or war, be made subjects of and to the camp?

In grappling with these questions, I often found myself taking somewhat of a distant approach to my choice of images and manner of analysis. I am aware that as a result, at times my writing can come across as removed, or perhaps a bit detached. This was not a deliberate choice on my part, but it did end up being a

necessary one. Creating distance was not to occupy the role of the dispassionate researcher; it was an attempt to give space to my analysis, against the fear that it would be narrowed to only the thin line of sight that was left between myself and the images. It was also an attempt to come to terms with the very real difficulty that is to be found in the fact that certain images slide more easily towards fetishization – of state violence, of the suffering of those thought worthy of suffering, and, as an especially relevant concern given our current socio-political and global realities, of abject Muslim bodies. It is also, however, these same difficulties and complexities that give such images force, and that make grappling with the meanings and effects of them a most pressing concern. Given these considerations, I approach Guantanamo's images as affective, productive, and responsive materials, and treat them as such then read against surrounding circuits of law, politics, and violence. I also do so knowing that they may, despite my best intentions, give rise to fetishizing and subjectifying impulses. However, an important aim of this dissertation is to allow these impulses to be placed in critical conversation with the panoply of forces that bring them about.

At the same time, confronting these questions also meant coming to terms with the ethical and political drives behind this dissertation. I want the reader of this project to be drawn into the images as I am, to understand them not merely as artifacts but as part of a larger archive of state violence. This archive is active and generative, and it gives rise to a force field of meaning that shapes not only Guantánamo and its detainees, but also our own understanding of *what* it is that constitutes violence and suffering, and *who* it is that can be seen as its target. In keeping, my choice of images was also driven by these same impulses. I selected those images that can be understood as deeply mediated by and productive of

meanings, while also given over to uncertainties – to those fits and starts of knowledge – even as and while they work to structure legal and political meaning, fields of vision (and invisibility), and the (im)perceptibility of violence and suffering. These images are connected and distinct instantiations of the complex relationship between visibility, power, violence, and the making and unmaking of subjects and bodies. They are also fundamental to the functioning of these relations, as they diligently work to shape *how*, *what*, and *who* we see.

iv. Dissertation Structure

In **Chapter 1**, I lay out the legal and political history of Guantánamo, as an ambiguous territory of the United States and as a detention camp for various “othered” groups. This chapter also contains an overview of debates around the legality and illegality of this space, as well as those which locate Guantánamo on a continuum of “camps” that emerge from within modern liberal regimes and which operate as zones of indistinction or “spaces of exception.” I use this discussion to theoretically ground the rest of my project; I offer that the most apt reading of the camp attends to the ways in which it is firmly within and mediated by law, as even in moments that appear to be blatantly extra-legal, Guantánamo is in fact suffused with legal work. **Chapter 2** offers a conceptual and analytical intervention in the examination of Guantánamo Bay and its particular forms of violence through a consideration of the male Muslim subject and body. I advance this figure as one which collapses and enfolds subjectivity and body, and, in this enfolding, I also advance a conceptual framework and analytical tool for furthering understanding the relationship between violence and “othered” subjects and bodies. In **Chapter 3**, I detail the role of visibility in

further mediating and crafting meanings around this figure. I show that, in their ability to create and distill meanings around race, empire, and violence, images are vital sources in the mapping process of the detention camp, particularly when it comes to understanding the relationship between the detainees, as male Muslim bodies, and the specific circuits of violence that surround and shape them. The remaining chapters expand these areas of analysis and apply the arguments and theoretical lenses established in previous chapters to specific images of Guantánamo and of its detainees. In **Chapter 4**, using recent legal rulings, I examine how images of Guantánamo entangle with legal decision-making around this space. These contents and framing of these images shift concomitantly with shifts around the legal status of detainees. This has analytical implications for how we should further understand the relationship between law, visual practices, and how state violence is read against certain kinds of bodies. In **Chapter 5**, I analyze how Guantanamo's hunger strikes further figure into these relations. I demonstrate that in efforts to apprehend, make (in)visible, and to subdue the hunger-striking body, visual practices are central to the working out of the boundaries and expressions of state violence, the calculations of which are acted out upon detainee bodies. Finally, in **Chapter 6**, I examine how the re-representation of Guantánamo images in political acts of resistance functions in relation to the particular interplay of violence and visibility that characterize the camp. I interrogate the extent to which these re-representational practices may have a role in sustaining this relationship, as ethical questions around their use sheds further light on whether visual practices, as acts of resistance or not, work to further subjugate those constructed through a violent visibility.

Chapter 1: “An Animal Like No Other” – Framing Guantánamo

I think Guantánamo, everyone agrees, is an animal, there is no other like it.³⁷
Supreme Court Justice Ruth Bader Ginsburg

Introduction

This chapter contextualizes the use of Guantánamo Bay as a detention center by situating it within its own particular legal and political histories. These histories are characterized by relations of ambiguity – mainly legal, but also geographical and political. While this ambiguity has marked Guantánamo as a unique kind of space, with its own peculiar legal and political grammar, it is also possible to place the detention camp solidly within, rather than outside of, the boundaries of law and politics. In other words, while the camp is often, and rightly, framed as a “space of exception”, it is also marked by a “tortured geograph[y]” that relies on “the mobilization of two contradictory legal geographies”³⁸ that places it simultaneously inside and outside of the United States. I argue that the phenomenon of Guantánamo Bay should be therefore understood as both singular and historical, and as embedded within and disjointed from the usual practices of state violence. Importantly, it is within and between these meldings of old and new, of past hauntings and future fears, that the figure of the detainee takes shape and can be understood — legally, politically, and visually.

It is necessary at the outset to make note of the methodological challenge posed by this chapter. The practices and logics behind Guantánamo largely

³⁷ Justice Ruth Bader Ginsburg, Oral Arguments, *Rasul v. Bush*, 542 U.S. 466 (2004) (Nos. 03-334, 03-343), 51.

³⁸ Gregory, “The Black Flag”, 405.

unfold within and as a result of legal and political obfuscations, where regulatory and legal apparatuses are but a few of a series of tools, both rhetorical and otherwise, that render the camp as invisible as it is highly visible. This makes discerning the “facts” as it pertains to Guantánamo at best a difficult and tedious task, and at worst a study in futility. The facts that I have managed to gather and piece together to construct a legal and political history of the camp were made possible only through the hard work of legal scholars, lawyers and humanitarian advocates for detainees, and news reporters, as well as through the stories of detainees themselves.

1.1 A Short History of (Extra)Legal Detention

In early 2002, the first of what would eventually number hundreds of Muslim men (and some children³⁹) accused of terrorism-related activities were transferred by American forces to the U.S. Naval base in Cuba. These transfers were enacted as a result of a series of Presidential orders from George W. Bush in the days and months following the 9/11 attacks. On September 18, 2001, the Authorization for the Use of Military Force (AUMF) granted President Bush sweeping authority to “use all necessary and appropriate force against those nations, organizations, or persons he determine[d] planned, authorized, committed, or aided the terrorist attacks ... in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.”⁴⁰ This was soon after accompanied by an authorization of the

³⁹Children between the ages of 13 and 16 were part of some 700 documented persons detained in Guantánamo, one of whom was Canadian citizen Omar Khadr, who was 14 at the time of his transfer to the camp.

⁴⁰Authorization for Use of Military Force, Pub. L. No. 107-40, 115 Stat. 224 (2001).

“detention, treatment, and trial of certain non-citizens in the war against terrorism”⁴¹. This Order granted the President the sole ability to determine the individuals who would fall under the category of non-citizen, and established the use of military commissions for trying them. Significantly, in a section that would eventually give rise to a series of court challenges around the *habeas corpus* rights of detainees, it explicitly stated that detainees “shall not be privileged to seek any remedy or maintain any proceeding, directly or indirectly, or to have any such remedy or proceeding sought on the individual's behalf, in (i) any court of the United States, or any State thereof, (ii) any court of any foreign nation, or (iii) any international tribunal.”⁴²

The Detainee Treatment Act (DTA), passed by Congress in 2005, further established that that no court “shall have jurisdiction to hear or consider an application for writ of habeas corpus filed by or on behalf of an alien detained [...] at Guantánamo [...] or any other action against the United States or its agents relating to any aspect of the detention.”⁴³ In other words, the DTA carved out the jurisdictional boundaries around Guantánamo, as it severely curtailed the federal courts from intervening in the detention camp. Under the Obama administration, the National Defense Authorization Act (NDAA) of 2012 reiterated the authority of the AUMF to use indefinite detention for suspected participants in the 9/11 attacks, or those who are thought to have provided

⁴¹ Presidential Military Order: Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism, the White House, November 13, 2001.

⁴² Presidential Military Order: Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism, the White House, November 13, 2001, Sec. 7 (b)(2)

⁴³ Congressional Research Service, “Enemy Combatant Detainees: Habeas Corpus Challenges in Federal Court”, February 3, 2010, Summary.

support to “Al-Qaeda, the Taliban, or associated forces”; the authorization was further said to continue until “the end of hostilities”.⁴⁴ The effect of these, and other, executive orders means that the state of perpetual warfare that the “war on terror” entails, the indefinite detention regime, and the continued legal exclusion of detainees has been normalized, legally, and politically.

Taken together, these orders have also established the legal and political parameters (or lack thereof) around the transfer of subjects to territories outside of the United States in order to deliberately put them beyond the jurisdictional reach of the federal courts⁴⁵, while this “legal equivalent of outer space” also allowed the state to make use of such tactics as indefinite detention, military commissions (as opposed to civilian courts), and a denial of basic due process rights.⁴⁶ However, despite the extra-ordinary aspects of these orders, literature around the history of Guantánamo Bay indicates that it is far from a singular event.

Since the 1898 Spanish-American war, in which the United States provided aid to Cuban forces resisting colonial Spain⁴⁷, the U.S. has held a lease⁴⁸ for the land surrounding Guantánamo Bay. During the conflict, the United States

⁴⁴National Defense Authorization Act for Fiscal Year 2012, Sec. 1023.

⁴⁵“Towards the Closure of Guantánamo”, *Inter-American Commission on Human Rights*, <http://www.oas.org/en/iachr/reports/pdfs/Towards-Closure-Guantánamo.pdf>, accessed November 11, 2017, 16.

⁴⁶Tom Malinowski, “Restoring Moral Authority: Ending Torture, Secret Detention, and the Prison at Guantánamo Bay”, *The Annals of the American Academy of Political and Social Science* 618, no.1 (2008): 149.

⁴⁷ Amy Kaplan, “Where is Guantanamo?”, *American Quarterly* 57, no.3 (2005): 833.

⁴⁸Much of the legal debate around Guantánamo’s legality has focused on how the original lease granting the land to the United States should be interpreted. The lease states in part that “while on the one hand the United States recognizes the continuance of the ultimate sovereignty of the Republic of Cuba over the above described areas of land and water, on the other hand the Republic of Cuba consents that during the period of the occupation by the United States of said areas under the terms of this agreement the United States shall exercise complete jurisdiction and control over and within said areas”. Kaplan, “Where is Guantanamo?”, 836.

militarily occupied Cuba, under the guise of guiding the country in its newly-won freedom from Spanish forces. The occupation eventually ended in a reluctant withdrawal of American troops after the new Cuban republic instituted their own constitution. Despite this, the 1901 U.S. Platt Amendment “reserved to the United States the right to intervene in Cuba militarily and to control its economy and its relation with other countries [and] guaranteed the lease or purchase of coaling and naval stations, a provision that would lead to leasing Guantánamo Bay in 1903”.⁴⁹ The Amendment further granted the U.S. the ability to intervene in Cuban affairs so long as it was done in order to preserve the independence of the Cuban nation.

While the Platt Amendment was eventually abrogated in 1934, Cuba and the U.S. eventually agreed to extend Guantánamo’s lease into perpetuity; more specifically, the agreement allowed for the United States to maintain a presence for as long as they wanted, with the lease only ending if they chose to abandon their naval station.⁵⁰ Since this time, Guantánamo has “played a strategic role in the changing exercise of U.S. power in the region, as a coaling station, a naval base, a cold war outpost, and a detention center for unwanted refugees”.⁵¹ It also, as Derek Gregory emphasizes, still “bears the marks of [the] ligatures between colonialism, violence and law.”⁵², while its leasing to the American government

⁴⁹ Kaplan, “Where is Guantanamo?”, 835.

⁵⁰ Kaplan, “Where is Guantanamo?”, 836. After the 1959 Cuban Revolution, Fidel Castro attempted to end the lease to no avail. As Kaplan notes, “the U.S. treasury still sends a check each year of \$4, 085 for ‘leasing’ the land that the Cuban government doesn’t cash, because it demands that the United States cease the occupation of its territory. According to the Cuban government, Guantánamo Bay continues to be an illegitimately occupied territory”.

⁵¹ Kaplan, “Where is Guantanamo?”, 832.

⁵² Gregory, “The Black Flag”, 411.

mark it as an ambiguous space, somewhere between the sovereignty and jurisdiction of Cuba and America. These ligatures and ambiguities continue to be displayed within and reverberate throughout Guantánamo. Moreover, the indefinite deferral of Cuban sovereignty and the American holding of this space in perpetuity imbue it with a particular kind of temporal and legal-political relation to American imperial rule, “making it a chillingly appropriate place for the indefinite detention of unnamed enemies in [the]...perpetual war on terror”.⁵³

I approach the more recent history of this chillingly appropriate detention camp through Laleh Khalili’s notion of “lawfare”. Khalili argues that “the rule of law and its adherence to law are invoked as the talisman that justify wars, define the boundaries of detention and interrogation, and dictate procedures”.⁵⁴ This is what she refers to as “lawfare”, or the “use of legal means as a weapon of war.”⁵⁵ She notes that liberal regimes regularly wield law in this manner, and lawfare has been at the root of many a colonial venture, where law’s particular standing as both a discursive and material force worked to establish and reinforce both discursive and material boundaries. In the former sense, law did so by sorting through and distinguishing between the civilized and the non-civilized⁵⁶, and in the latter, by producing variegated spaces that allow for “the differential

⁵³ Ibid., 837. See also Laleh Khalili, who argues that in historically, as liberal regimes justified political acts in colonial spaces via reference to law, “what permitted [the] ramshackle and cursory conjuring of a dubious legal corpus was first that the colonies had such ambiguous jurisdictional status ...and second that the subjects of the law were themselves of dubious standing – a colonial subject was rarely a citizen in domestic law, or considered civilized enough to be recognized in international law.” Laleh Khalili, *Time in the Shadows, Time in the Shadows: Confinement in Counterinsurgencies* (Stanford: Stanford University Press, 2013), 71.

⁵⁴ Khalili, *Time in the Shadows*, 66.

⁵⁵ Khalili, *Time in the Shadows*, 65.

⁵⁶ Khalili, *Time in the Shadows*, 74.

application of law in line with contours of power”.⁵⁷ Therefore, even in ambiguous spaces seemingly outside of the law, as “a discourse and practice that establishes the boundaries of actions and defines who has the power and ‘right’ to wield violence, law is present in breach, or in full-force, or in self-contravention, and sometimes in all of those simultaneously.”⁵⁸

Initially, the use of Guantánamo for the purpose of a detention camp in the “war on terror” was viewed as a singular kind of event, a legal and political aberration nonetheless necessitating new penal techniques for a different kind of enemy. In this context, deviations from the norms of law were considered a necessary, if unfortunate, consequence of unchartered territories. That there was this sentiment not only in popular opinion, but within the highest levels of American courts, that the camp was (and remains) an exceptional circumstance, is captured by the quote which opens this chapter. As noted by Supreme Court Justice Ruth Bader Ginsburg, Guantánamo is “an animal like no other.” The idea of the camp as a different kind of animal, or an extra-ordinary response to equally extraordinary violence is captured also by the terms often used to define and characterize the space. These emphasize Guantánamo as a place voided of law as usual: it is “a legal black hole, a legal limbo, a prison beyond the law, [and] a permanent United States penal colony floating in another world”.⁵⁹

While these terms may capture the legal oddity that is Guantánamo, they fail to account for the ways in which law is ever-present within and outside of the camp, a looming and productive presence that is indeed made all the more

⁵⁷ Khalili, *Time in the Shadows*, 66.

⁵⁸ Khalili, *Time in the Shadows*, 66.

⁵⁹ Kaplan, “Where is Guantanamo?”, 831.

potent by its apparent breach. In other words, the language of exceptionalism, which operates as a discursive claim and a legal and political strategy, emphasizes the singular nature of the camp to the detriment of locating it on a continuum of historical state violence. As observers were quick to point out, the choice of this space as a detention camp was not accidental, nor were the use of tactics like rendition and indefinite detention something that emerged solely as a response to the 9/11 attacks. Both the choice of Guantánamo and the methods of detention used in this space were, and continue to be, deeply embedded in and coextensive with law, warfare, and with colonial and imperial projects of past and present.

Post-9/11 state responses to “war on terror” threats deploy the same sets of logics and techniques as were used in slave codes, colonial projects and power relations, immigration policies past and current, and Cold War militarism. Moreover, “circuits of imperial violence”⁶⁰ are further bound to modern-day domestic penal techniques, which themselves draw on a history of racial logics in order to rationalize the disproportionate incarceration of racialized populations. As Anne McClintock argues, part of the political and moral urgency that is compelled by the fact of Guantánamo lies in the need to “illuminate the continuities” and to “make to make visible (the better politically to challenge) those established but concealed circuits of imperial violence that now animate the war on terror”.⁶¹

The legal, political, and geographical ambiguity that has historically

⁶⁰ Anne McClintock, “Paranoid Empire: Specters from Guantánamo and Abu Ghraib”, *Small Axe*, 13, no. 1 (2009): 52.

⁶¹ McClintock, “Paranoid Empire”, 52.

marked Guantánamo, alongside the continuities that can be drawn between the detention camp and broader circuits of both imperial and domestic violence, means that iterations of the camp have drawn on interlocking sets of rationales and practices. It also means that in 2002, prisoners arrived to a detention camp that was already well-established. In previous years, the naval base was used to detain Haitian and Cuban refugees in order to prevent them from entering the United States.⁶² When Haitian refugees took to the seas in the aftermath of their country's 1991 military coup, the U.S. coast guard intercepted their boats and repatriated them back to Haiti. After international outcry, these refugees, a number of whom were found to suffer from HIV, were transported to Guantánamo and left to languish at the camp for years in dire circumstances: they were left without access to medical care, subjected to pre-dawn raids by heavily-armed military forces, and were denied the ability to appeal for asylum.⁶³

In 1994, as Cuba experienced an outbreak of anti-government rioting, Cuban president Fidel Castro announced that the country's army would not prevent anyone who wanted to leave the country from leaving. In response, some thirty-thousand Cubans fled the country atop rafts and attempted to enter the United States⁶⁴; most were swiftly intercepted by American forces and detained at Guantánamo Bay, where prisoner uprisings and attempted suicides

⁶² Kaplan, "Where is Guantanamo?", 839.

⁶³ Kaplan, "Where is Guantanamo?", 839. Kaplan notes that "a separate camp was built for those who, through forced testing, were found to carry HIV, where they received inadequate medical care and where medicine was often used coercively; their health rapidly deteriorated".

⁶⁴ Alan Taylor, "20 Years After the 1994 Cuban Raft Exodus, *The Atlantic*, November 12, 2014, <https://www.theatlantic.com/photo/2014/11/20-years-after-the-1994-cuban-raft-exodus/100852/>, accessed November 11, 2017.

were met by military force. It was not until 1995 that the camp was closed and detainees were either repatriated, allowed into the United States, or sent to third countries.⁶⁵ The detention of refugees in Guantánamo and the use of the camp as a prison for “war on terror” captives share a common legal framework, as the United States government has relied on similar logics to justify its use of detention, to the extent that the same case law and precedents were cited by the government in both cases. These legal justifications largely based on the lack of U.S. sovereignty in Guantánamo, which, according to the American state, meant that those held there had no constitutional rights, nor could they take recourse in international human rights treaties that were found to “bind the government only when refugees are at or within the borders of the United States”.⁶⁶

A designated section of the camp named Camp X-Ray was originally built in 1994 to house the most troublesome of the Cuban refugees, and was made up of 40 open-air cages, commonly referred to by military personnel as “dog cells”. That Camp X-Ray was both the first point of arrival for “war on terror” detainees in 2002, and also the site of alleged torture sessions which included “49-day, 20-hour-a-day interrogation[s], forced nudity in cold rooms, shackling in stress positions, forcing detainee[s] to stay awake with loud music and making [them] bark and obey dog commands”⁶⁷, seems to be no coincidence. Guantánamo Bay detainees, in inhabiting the same spaces which were previously used to detain refugees, share more in common with their predecessors than just location; they

⁶⁵ Kaplan, “Where is Guantanamo?”, 839-40

⁶⁶ Kaplan, “Where is Guantanamo?”, 841.

⁶⁷ Charlie Savage, “Camp X-Ray: A Ghost Prison, *New York Times*, August 31, 2014, <https://www.nytimes.com/interactive/2014/09/01/us/Guantánamo-camp-x-ray-ghost-prison-photographs.html>, accessed November 11, 2017.

also inhabit similar imaginative, racial, and political-legal categories that deem them fit for such detention. For Amy Kaplan, the continuity between past and present uses of this space and those detained there allows for clear correlations to be drawn between various kinds of subjugated bodies. These connections can also be seen in the visual through-line that runs throughout the history of the camp. Visual records of detention in Guantánamo predate “war on terror” detainees, although these sets of images are remarkably similar in terms of what and who they capture. As Kaplan notes, “current prisoners not only ... inhabited the camps built for the Haitian and Cuban refugees. [T]hey also continue to inhabit the racialized images that accrued ... in the imperial outpost of Guantánamo: images of shackled slaves, infected bodies, revolutionary subjects, and undesirable immigrants”.⁶⁸



Figure 1.1 Haitian refugees being held at Guantánamo 's Camp McCalla, three months after the coup d'etat against Pres. Jean-Bertrand Aristide. Credit: Carol Halebian

⁶⁸ Kaplan, “Where is Guantanamo?”, 840.



Figure 1.2 A hangar at Guantánamo Naval Base where Haitian refugees were housed on cots in late 1991 through May 1992. Credit: Chris O'Meara / AP

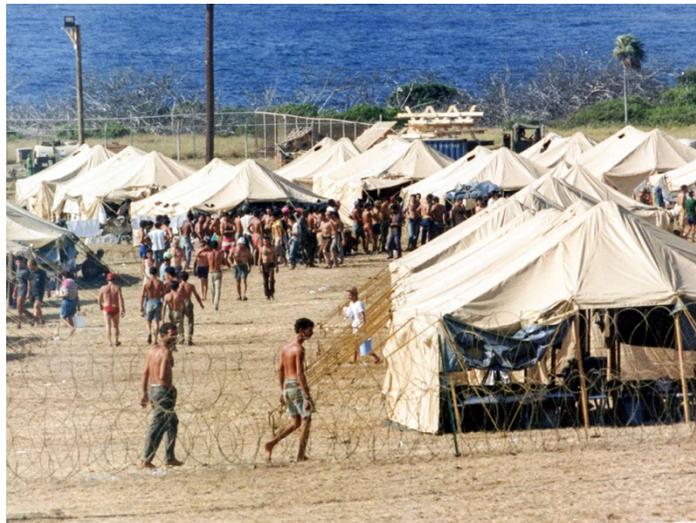


Figure 1.3 Cuban refugees in a "tent city holding camp" at Guantánamo Bay, Cuba. Aug. 27, 1994. Photo Credit: Reuters

Images of Cuban and Haitian refugees, both in terms of their material content and with regards to what they conjure in the imagination, and read alongside current images of the camp, evade the historical and racial specificity of their circumstances and speak into the future. In doing so, they not only frame Guantánamo's detainees as similarly "racially marked bodies in an imperial

system”⁶⁹ – but they also indicate the extent to which this marking occurs within the entangled relationship between visual practices and state violence.

1.2 “The Camp”: Homo Sacer, (Un)lawful Enemy Combatants, and Legal and Visual Mediation in Guantánamo

A significant portion of the literature pertaining to Guantánamo centres around the role of the camp in the spacialization of sovereignty and spaces and states of exception in modern geopolitics, wherein it serves as an archetype of these spaces and states.⁷⁰ In other words, the camp encapsulates the suspension or voiding of the norm, producing a space of liminality and indistinction, where “sovereign power decides the confines between life and death and where, precisely from that confine, it attempts to order the world, to put in order that which lies ‘outside’ of the Camp, that which is not Guantánamo (yet)”.⁷¹ As Judith Butler notes, where “law itself is either suspended or regarded as an instrument the state may use in the service of constraining and monitoring a given population”⁷², the state can “extend its own power to imprison indefinitely a group of people without trial”.⁷³

Perhaps the most influential work in this vein is that offered by Giorgio Agamben. Agamben argues that the state of exception and the forms of life (or non-life) it engenders are central aspects of modern states and of sovereignty in general. Rather than the Foucauldian reading wherein sovereign power gives

⁶⁹ Kaplan, “Where is Guantanamo?”, 840.

⁷⁰ Claudio Minca, “The Return of the Camp”, *Progress in Human Geography* 29, no. 4 (2005): 406.

⁷¹ Minca, “The Return of the Camp”, 406.

⁷² Judith Butler, *Precarious Life: The Powers of Mourning and Violence*, (New York: Verso, 2004), 57.

⁷³ Butler, *Precarious Life*, 57.

way to biopower (or “the entry of the biological life of a given population into the calculations of the state”⁷⁴), Agamben argues that the “production of a biopolitical body is the *original* activity of sovereign power.”⁷⁵ Through “inclusionary act(s) of exclusion”, sovereign power demarcates those within and, more importantly, those outside of politics and law. More broadly speaking, for Agamben, these exclusions and contortions of law make the notion of the “exception” as one which is “increasingly ... the dominant paradigm in contemporary politics”.⁷⁶ In the exception, where states may kill at will through making exceptions to, or exempting themselves from norms of law and politics, the concentration camp is not a relic of the past, but is rather a concrete and ever-present expression of this paradigm.

As “the fundamental biopolitical paradigm of the West”,⁷⁷ Agamben contends that the camp is not simply “a political fact and an anomaly belonging to the past ... but in some ways ... a matrix and nomos of the political space in which we are still living”,⁷⁸ where “inasmuch as its inhabitants have been stripped of any political status and reduced completely to bare life, the Camp is also the most absolute biopolitical space that has ever been realized – a space in which power confronts nothing other than pure biological life without any

⁷⁴ Halit Mustafa Tagma, “Homo Sacer vs. Homo Soccer Mom: Reading Agamben and Foucault in the War on Terror”, *Alternatives* 34, no. 4 (2009): 412.

⁷⁵ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 1998): 6. Emphasis added.

⁷⁶ Giorgio Agamben, *State of Exception*, trans. Kevin Attell (Chicago: Chicago University Press, 2005), 2.

⁷⁷ Agamben, *Homo Sacer*, 181.

⁷⁸ Agamben, *Homo Sacer*, 166.

mediation.”⁷⁹ Therefore, the “*homo sacer*” of Roman law, who is totally lacking in political subjectivity, reduced to “bare life”, and can be sacrificed at will by sovereign power without ever being recognized as having been killed, is not only the figure which lies at the center of political modernity, but is that figure who occupies such spaces of indistinction.⁸⁰ Amongst these figures are Guantánamo’s detainees, whose consignment to the camp is a reflection of their abandonment by law: they have “absolutely no legal status [and] are subject now only to raw power; they have no legal existence”.⁸¹ In this sense, Guantánamo is but an instantiation of the modern camp paradigm, appearing “as the space where political life becomes ‘bare life’”.⁸² Detainees, too, *appear* as “bare life”, where “images of shackled prisoners in orange jumpsuits show how the prisoners have been deprived of their sense that make them human”.⁸³

The idea of Guantánamo as a space of exception, and of detainees as “bare life”, have been complicated by a number of theorists. These complications often rest on the center around the *forms* of violence which occur in the detention camp, as well as the ways in which law continues to be deeply embedded within the camp. For example, David Taylor Dunford draws together Giorgio Agamben’s use of *homo sacer* and “bare life” in relation to Guantánamo as a space of exception and Foucault’s concepts around sovereignty and security. He argues that both approaches fall short in explaining just what is going on in

⁷⁹ Giorgio Agamben, *Means Without End: Notes on Politics* (Minnesota: University of Minnesota Press, 2000), 41.

⁸⁰ Agamben, *Homo Sacer*.

⁸¹ Ulrich Raulff, “An Interview with Giorgio Agamben,” *German Law Journal* 5, no. 5 (2004): 610.

⁸² Claudia Aradau, “Law Transformed: Guantanamo and the ‘Other’ Exception,” *Third World Quarterly* 28, no. 3 (2007): 489–501, 494.

⁸³ Tagma, “Homo Sacer vs. Homo Soccer Mom”, 419.

Guantánamo, as Agamben's theory relies too heavily on the distinction between the norm and the exception, and cannot account for the excess of law in the detention camp, while Foucault's ideas fail to capture the uniquely pre-emptive logics at work in the "war on terror".⁸⁴

For Halit Mustafa Tagma, Agamben's focus on violence committed by and in the name of the sovereign state elides the micro-practices of subject formation and sovereign violence, wherein regimes of truth work to create hierarchies and classifications of the kinds of bodies upon whom violence can be inflicted.⁸⁵ It is not pure sovereign power that decides who may be placed within zones of indistinction; "rather, historical relationships, cultural interactions, and racial and gender differences have much to do with the production of a so-called homo sacer."⁸⁶ In this sense, "the production of the biopolitical body has long operated in tandem with a regime of truth that produces a demarcation of self and other, a process marked by culture and history".⁸⁷

The *homo sacer* is therefore not just an excluded body "made possible by sovereign power that produces bare life"; rather, it is "the product of historical and cultural forces at play in what counts as a rational citizen of the polis".⁸⁸ Moreover, sovereign decisions as to who is marked as bare life and as fit for detention in camps are based in "cultural and colonial history(ies)", and depends

⁸⁴ See David Taylor Dunford, "Legal nominalism: A reconceptualization of post-9/11 legal complexes", *International Journal of Law, Crime and Justice* 47 (2016): 1-11; "Security sovereignty and the pre-emption of low-risk detainees: A look into 'battlelab' torture techniques used at Guantanamo Bay", *International Journal of Law, Crime and Justice* 50 (2017): 12-21.

⁸⁵ Tagma, "Homo Sacer vs. Homo Soccer Mom", 410.

⁸⁶ Tagma, "Homo Sacer vs. Homo Soccer Mom", 410.

⁸⁷ Tagma, "Homo Sacer vs. Homo Soccer Mom", 410.

⁸⁸ Tagma, "Homo Sacer vs. Homo Soccer Mom", 422.

on biopower and the “classification, hierarchization, and othering provided by a regime of truth in order to conduct its violent power.”⁸⁹ This means that rather than the *homo sacer* being everyone, as all are susceptible to the calculations of sovereign decision-making, this vulnerable figure instead emerges from and is embedded within “regimes of truth produced through cultural and colonial norms”.⁹⁰ This means also that “only certain types of people [can] be rendered as bare life and thrown into a zone of indistinction. Understood this way, it is easier to comprehend the production of *homines sacri* out of Middle Eastern subjects”.⁹¹

Tagma’s analytical interventions are useful in two very important regards: for one, his reconceptualization of the *homo sacer* as a decidedly distinct figure highlights the ways in which the *homo sacer* emerges from a confluence of forces that work in tandem to mark certain bodies as the targets of specific forms of state power. This allows for a closer consideration and naming of these forces, the histories and sets of knowledge they draw upon, and how they become enacted against and through specific *homines sacri*. More generally, his analysis offers a corrective to Agamben’s notion of the camp as a thoroughly *unmediated* zone. The camp, as it exists in Guantánamo, is indeed comprehensively mediated. The state’s visual cataloguing of the detention camp, as well as the excess of legal documentation, cases, and government edicts around Guantánamo suggest that Agamben’s notion of the contemporary camp as fundamentally devoid of any force besides pure power is short-sighted. Visual practices and law exist alongside and in concert with state power in

⁸⁹ Tagma, “Homo Sacer vs. Homo Soccer Mom”, 427.

⁹⁰ Tagma, “Homo Sacer vs. Homo Soccer Mom”, 421.

⁹¹ Tagma, “Homo Sacer vs. Homo Soccer Mom”, 427.

Guantánamo, mediating the camp along with those cultural and historical forces that shape the figure of the *homo sacer*. Images and law are therefore not mere after-effects of “the camp”. Rather, they are part of what renders it as such.

The various forces that come to bear on the *homo sacer* make use of sovereign power, but also biopower and disciplinary power, all of which are deployed in Guantánamo.⁹² This can be seen also in how detainees exist in the detention camp; rather than sovereign powers’ “taking or granting of life” or biopowers’ “letting live and making die”, power operating in Guantánamo *forces* prisoners to live. This enforced and liminal form of living means that “unlike the *homo sacer* who may be killed but not sacrificed, the prisoners in Guantánamo may not be killed or sacrificed”⁹³, and indeed, as Chapter 5 will show, extensive efforts are undertaken to keep detainees alive, even against their will. The (likely correct) instinct that caring for detainee life is a political ploy to draw attention away from the inherent violence of the camp and of indefinite detention is, at this juncture, besides the point. What is important here is the ways in which Guantánamo Bay and its detainees both encapsulate and exceed Agamben’s paradigm of the camp.

Following initial analyses that placed Guantánamo and its practices squarely into a “legal black hole”, further work has explored how the camp’s ostensive exceptionality has in fact been constructed via “a conscious and deliberate legal process of temporarily and functionally setting aside one body of law and adopting another, [and by] replacing legal procedures with

⁹² Tagma, “Homo Sacer vs. Homo Soccer Mom”, 410.

⁹³ Tagma, “Homo Sacer vs. Homo Soccer Mom”, 420.

administrative procedures”.⁹⁴ In this sense, the notion of Guantánamo as “setting aside” normative legal practices does not entirely capture the ways in which multiple bodies of law operate simultaneously and in tandem with other apparatuses, even when this they are seemingly contradictory to the functioning of law.

The charge of extra-legality and/or exceptionality that is often levied against Guantánamo fails to consider two key factors: for one, extra-legality does not necessarily mean that there has been an overt transgression of normative law. Oftentimes, extra-legal processes or categorizations can function right alongside, in concert with, and as a result of normative law.⁹⁵ Secondly, while extra-legality may involve situations or sets of forces which occur outside of law, these situations or sets of forces “give shape to a domain...whether temporarily or permanently”. These extra-legal domains are also legal jurisdictions, as they “are spaces from which the authority of law gets spoken or performed, albeit often in a register of disavowal or differentiation”.⁹⁶

Such a reconceptualization of the notion of extra-legality results in a finding that law was actively present, in a multitude of forms, in the detention camp, and from its inception. “Law and liberal proceduralism [were] speaking and operating in excess”,⁹⁷ through legal representation and classification, while the “jurisdiction of Guantánamo Bay [was] conditioned by extra-legalities [that

⁹⁴ Khalili, *Time in the Shadows*, 67. Emphasis added.

⁹⁵ See Muneer I. Ahmad, “Resisting Guantánamo: Rights at the Brink of Dehumanization”, *Northwestern University School of Law* 103, no. 4 (2009): 1684-1762.

⁹⁶ Fleur Johns, *Non-Legality in International Law: Unruly Law* (Cambridge, Cambridge University Press, 2013): 62, 69.

⁹⁷ Johns, *Non-Legality in International Law*, 70.

were] somewhat paradoxically, highly regularized through legal work and writing".⁹⁸ An example of the output of this excess of law were the "panoply of regulations concerning the handling of detainees", where "integrated team[s] of interrogators, analysts, behavioural scientists and regional experts' work[ed] alongside military lawyers and federal law enforcement officials to decipher and consider all relevant information"⁹⁹ necessary to maintaining the functioning of these regulatory networks.

The camp as a zone of indistinction, or as a space of exception, also fails to capture the ways in which "every miniscule element of the lives of ... prisoners have been planned and is ... regulated by a written code of conduct. This clearly hints that it is not just an exceptional sovereign power at work in Guantanamo ... Instead, there are multiple technologies of power that are at work in the day-to-day administration of this space".¹⁰⁰ Emphasizing the presence and use of law, or at least legal and regulatory technologies, in Guantánamo is not to say that the camp *is* legal: it is, instead, to highlight how the camp is mediated by and a product of an array of illegal or extra-legal claims and categorizations that gain part of their force, or legitimacy, from how they become enacted under the cover and claim of law.¹⁰¹

Legal intervention, alongside semi-legal processes and regulations, has therefore resulted not in a removal of law, but rather the intensification of ever-

⁹⁸ Johns, *Non-Legality in International Law*, 71.

⁹⁹ Johns, *Non-Legality in International Law*, 73.

¹⁰⁰ Tagma, "Homo Sacer vs. Homo Soccer Mom", 420. As Tagma notes, this includes the camp's Standard Operating Procedures manual, a 250-page document that outlines in detail the rules, regulations and procedures around a host of issues, including "what to do if there is a petty riot, when and how to spray pepper spray on rioters, religious burial rituals for prisoners, and so on".

¹⁰¹ Ahmad, "Resisting Guantánamo", 1687.

denser normative and institutional networks governing ‘processes’ at Guantánamo Bay. This is also evidenced by the influx of “expertise, procedure, scrutiny and analysis”¹⁰² that characterize procedures at the camp. As Khalili argues, “the corpus of law constantly crafted, legislated, argued, defended, and implemented by the US government have an ad hoc quality, and incrementally codify the arbitrary practices already established. But this makes them no less a legal set of discourses and practices”.¹⁰³

Indeed, legal work around Guantánamo began before the first detainees reached the shores of the Bay, when in 2001, the first of a series of Military Orders was issued by the DOD. As mentioned earlier, these orders established a complex and highly regulated legal regime around the detention camp and set the parameters for who could be held there. Holding together the threads of this legal regime was the legally anomalous figure of the “unlawful enemy combatant”. While Guantánamo’s history of detention provided a “template for how rights could be stripped away [as a result of a] combination of geographic proximity and jurisdictional extraterritoriality”¹⁰⁴ and was also a factor in choosing it to house “war on terror” detainees, it is important to recognize that anomaly and ambiguity appear not just as characteristics of this extra-legal space

¹⁰² Johns, *Non-Legality in International Law*, 77.

¹⁰³ Khalili, *Time in the Shadows*, 73.

¹⁰⁴ Ahmad, “Resisting Guantánamo”, 1687. See also Karen Greenberg, who notes that with regards to the Haitian and Cuban refugees warehoused by the U.S. in Guantanamo in the 1980s and 1990s, the Pentagon refused to refer to them as refugees, insisting instead that they be called “migrants”. This language worked to cast doubt on their ability to lay claim to viable legal statuses that would grant them the attention of American Courts. Greenberg, *The Least Worst Place*, 14.

and venture, but also as vital to law's functioning in this specific moment of state violence.¹⁰⁵

In keeping with this, in the early days of the “war on terror” campaign, an order by George W. Bush suspending the Geneva Conventions’ applicability to those held in Guantánamo Bay, established the use of the category of “unlawful enemy combatant”¹⁰⁶ in relation to the prisoners. This re-categorization, largely predicated on its force as a kind of negative legal interpellation, was operationalized by the U.S. government so as to sidestep international humanitarian law conventions – namely, the Geneva Conventions – with regard to the treatment of prisoners of war, and to place detainees beyond the jurisdictional reach of international law and the federal courts. This manoeuvring included attempts to circumvent basic international and domestic laws around the use of excessive force and torture in wartime, as seen in 2002 in the so-called “Torture Memos”. These memos, crafted by senior Bush officials Jay Bybee, then-Assistant U.S. Attorney General and Head of the Office of Legal Counsel at the Department of Justice (DOJ) and John Yoo, Deputy Assistant Attorney General at the Office of Legal Counsel at the DOJ, justified the use of torture against

¹⁰⁵ Ahmad, “Resisting Guantánamo”, 1706.

¹⁰⁶ This category had been used previously in wartime by the United States, most notably in the case of *Ex parte Quirin*. The 1942 WWII-era case involved German citizens arrested on American soil after being accused of being saboteurs, and who were sentenced to death for their crimes. The U.S. government argued that this sentence, as opposed to being held in detention as was the commonplace scenario with prisoners of war, was justified because the accuseds did not qualify as lawful combatants. While lawful combatants were “subject to capture and detention as prisoners of war by opposing military forces, [u]nlawful combatants [were] likewise subject to capture and detention, but in addition they are subject to trial and punishment by military tribunals for acts which render their belligerency unlawful”. Central to the designation of the Germans as unlawful was their status as noncitizens, or as “non-resident noncitizen aliens”; this was crucial in the government and the Supreme Court’s assessment of “determining the extent to which detainees could be concealed, where they could be kept and for how long, to what treatment they could be subjected, and the extent to which criminal due process could be denied or proffered to them”. See Khalili, *Time in the Shadows*, 80.

suspected al Qaeda operatives, and provided legal arguments for the inapplicability of international conventions against the use of such methods, such as the U.N. Convention Against Torture. In doing so, the Bush administration diligently consulted legal experts and prepared legal arguments in order to expose Guantánamo's prisoners to forms of violence that the prisoner of war designation would prevent.¹⁰⁷

This categorization produced the camp's prisoners as legal subjects defined as much by their ouster from law as by the legal boundaries and categories that shaped them. In these processes, the prisoners were extended the hand of law, under the guise of legal categorizations, reasonings, and rationales, while occupying spaces and categories, also legal, but also literal and discursive, that placed them beyond its ultimate reach and that exposed them to otherwise unlawful torture and violence. The term "unlawful enemy combatants", then, was not just a rhetorical device or legal term of art, but carried with it discursive, legal, and material force. The "unlawful" designation attached not just to the argument advanced by the government that Guantánamo's prisoners were engaged "in violations of accepted rules of the law of war."¹⁰⁸ It was also an apt description of their placement outside of law, even as they were made subject to it.

The full definition of this category reads: an unlawful enemy combatant is "(i) a person who has engaged in hostilities or who has purposefully and materially supported hostilities against the United States or its co-belligerents

¹⁰⁷ See Dunford, "Legal nominalism".

¹⁰⁸ Brian Levin, "Military Tribunals or Civilian Prosecution: The Dilemma of Unlawful Enemy Combatants, *Global Crime* 7, no.3/4 (2006): 380.

who is not a lawful enemy combatant (including a person who is part of the Taliban, al Qaeda, or associated forces)". Later, this definition also came to include "(ii) a person who, before, on, or after the date of the enactment of the Military Commissions Act of 2006, has been determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense". This categorization is in comparison to "lawful enemy combatant", or a person who is: "(A) a member of the regular forces of a State party engaged in hostilities against the United States; "(B) a member of a militia, volunteer corps, or organized resistance movement belonging to a State party engaged in such hostilities, which are under responsible command, wear a fixed distinctive sign recognizable at a distance, carry their arms openly, and abide by the law of war; or "(C) a member of a regular armed force who professes allegiance to a government engaged in such hostilities, but not recognized by the United States".¹⁰⁹

The category of "unlawful enemy combatant", or simply "enemy combatant" as it eventually came to be called, marked prisoners as similarly separate and distinct, and as requiring containment to similarly interstitial spaces that did not adhere to customary international law. Against the notion of "lawful enemy combatants", which, according to the administration, could only include members of forces belonging to an official state and acting in accordance with

¹⁰⁹ *Pub. L. No. 109-366*, 120 Stat. 2600 (Oct. 17, 2006), enacting Chapter 47A of title 10 of the United States Code, 119.

customary laws of war,¹¹⁰ the “discursive force of the enemy designation”¹¹¹ was also intimately tied to prevailing logics within the detention camp. Stripped of “not only their rights, but also of the legal personality that is the basis for having rights, the “legal-political figure of the ‘enemy combatant’ ”¹¹² functioned to label prisoners as something distinct from the internationally recognized, and legally protected, category of prisoner of war. It also marked Guantánamo’s prisoners as uniquely fit for the camp’s indefinite detention regime, and the camp itself as both distinct and deeply mediated by the forces of legal categorization.

The effect of this legal re-categorizations continues, despite the Obama administration’s largely symbolic and rhetorical gesture of dropping the “enemy combatant” term for the more innocuous-sounding “detainee”.¹¹³ And so, while the “enemy combatant” label has given way to the “detainee”, it remains in law and executive orders as the term through which indefinite detention is politically justified. Through it, then, the underlying justificatory frameworks that shape this legal (or semi-legal) designation therefore continue to distance Guantánamo’s prisoners from both domestic and internationally recognized rights held generally by legal subjects and specifically by prisoners of war. At the same time, the rhetorical shift from the “unlawful enemy” designation to the “detainee” indicates a general shift from a framing of the camp as outside of to within law. While rhetorical, such shifts in language are meaningful and have

¹¹⁰ Scott Michaelsen and Scott Cutler Shershow, “Beyond and before the law at Guantánamo”, *Peace Review* 16, no. 3 (2004): 293

¹¹¹ Christiane Wilke, “War v. Justice: Terrorism Cases, Enemy Combatants, and Political Justice in U.S. Courts”, *Politics and Society* 33, no. 4 (2005): 647.

¹¹² Wilke, “War v. Justice”, 639.

¹¹³ Randall Mikkelsen, “Guantánamo inmates no longer ‘enemy combatants’”, *Reuters*, March 14, 2009, <http://www.reuters.com/article/newsOne/idUSTRE52C59220090314?sp=true>, accessed August 2, 2019.

both force and effect. Given this, it is important to clarify my use of the term “detainee” throughout this dissertation. This term is both troubling and troublesome; it produces effects and conjures meanings that I would otherwise seek to avoid reiterating. However, I choose to use it despite, and indeed because of, the meanings it contains and circulates, as well as what is contained in its very etymology – “those who are held in waiting, those for whom waiting may well be without end.”¹¹⁴

The “enemy combatant” categorization, and the “detainee” that followed were a willful and legal lexical attempt by the state to render Guantánamo’s prisoners as separate and apart from normative political and legal orders and the rights and protections afforded by membership in them, and to also brand them as stateless, illegitimate bodies engaged in inherently illegal and unrecognized (or unrecognizable) practices. However, the creation of this category was also an attempt by the state to remain within the larger domain of recognizable law, most apparently in the justification of this label through a careful parsing, but not outright rejection, of the Geneva Conventions. Moreover, the meticulous maneuvering through which the state defined detainees as non-state actors acting outside of the bounds of law and custom, as threats fit for an indefinite detention regime, and as falling outside of the jurisdiction of the federal courts, was not just a matter of exclusion and rejection – these maneuverings also constructed a legal and regulatory network around the camp, as encapsulated by

¹¹⁴ Butler, *Prekarious Life*, 64. Butler goes on to note that “to the extent that the state arranges for this pre-legal state as an ‘indefinite’ one, it maintains that there will be those held by the government for whom the law does not apply, not only in the present, but for the indefinite future”.

the military commission regime, the legitimacy of which has been upheld multiple times by both various levels of courts.¹¹⁵

In many ways, Guantánamo's military commissions, in their various iterations, are a simulacrum of law, insisting on the performance of legality for "the worst of the worst" while employing extra-legal rhetoric to justify a stripping away of detainee rights.¹¹⁶ In response to 2006 Supreme Court Decision that initially struck down the use of military commissions because they did not comply with the Geneva Conventions, a requirement under the *Uniform Code of Military Justice*,¹¹⁷ Congress passed the Military Commission Acts of 2006 and 2009. The 2009 Act and accompanying Defense manual allows for the use of coerced testimony, if "consistent with the interests of justice", permits defendants to be tried *ex-post facto* (i.e. face charges for an act that was not considered to be a war crime at the time it was committed), and contains an "overbroad definition of who can be tried before military commissions that includes juveniles and those not even engaged in hostilities."¹¹⁸ As Human Rights Watch has emphasized, "even with improvements, the military commissions are still substandard

¹¹⁵ Michaelsen and Cutler Shershow, "Beyond and before the law at Guantanamo", 298.

¹¹⁶ It is worth noting that only 1% of all prisoners ever held at Guantánamo have so far been convicted by a military commission; in two of those eight cases convictions for providing material support to terrorist activities were overturned on appeal by federal courts.

¹¹⁷ The Court found that military commissions, under the DTA, did not allow for detainees or their attorney to view classified information, and as such were a violation of Common Article 3 of the Geneva Conventions, which prohibits "the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples". See *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006), 6.

¹¹⁸ "Military Commissions", *Human Rights First*, accessed November 10, 2017, <http://www.humanrightsfirst.org/our-work/law-and-security/military-commissions/>.

proceedings lacking independence, fairness, and time-tested procedures of US federal courts”.¹¹⁹

However, military tribunals continue to be the venue through which the few Guantánamo Bay detainees who have had specific charges levied against them are tried. The military commissions also continue to abide by a mélange of traditional legal procedures and their own peculiar set of rules. For example, courtrooms come equipped with a “censorship button” that operates to protect the release of classified information.”¹²⁰ After that button is pressed, the audio of the proceedings cuts out, and a red light illuminates on the judge’s bench, letting members of the media, who are already listening on a 40-second delay, and trial counsel know information is being blocked.”¹²¹ In one high-profile military commission trial, it soon became clear that after the button was pressed in pre-trial hearings, no one in the courtroom seemed sure just who it was that was doing the pressing. While the ability to do so was supposed to belong to presiding judge, the judge denied doing so. In response, the prosecuting military attorney suggested that she knew who was pressing the button and why, and would provide the judge with this information in a post-motion hearing. The prospect that military prosecutors were controlling the procedures, rather than the judge, raised concerns about additional monitoring activities, and prompted

¹¹⁹ “The Guantánamo Trials”, *Human Rights Watch*, accessed November 10, 2017,

<https://www.hrw.org/features/Guantánamo>.

¹²⁰ Technically, under the rules governing Guantánamo Bay, “everything uttered by a detainee is considered ‘classified’”. See Peter Foster, “Guantánamo Bay war crimes tribunals ‘irrational and invidious’”, *The Telegraph*, April 11, 2012, accessed November 10, 2017, <http://www.telegraph.co.uk/news/worldnews/al-qaeda/9198552/Guantánamo-Bay-war-crimes-tribunals-irrational-and-invidious.html>

¹²¹ Krishna Andavolu, “Strange Things are Happening at Khalid Sheikh Mohammed’s Trial”, *Vice*, February 3, 2013. Accessed November 12, 2017. www.vice.com/en_ca/strange-things-are-happening-at-khalid-shiekh-mohammeds-trial.

defence attorneys to file an emergency motion to “prohibit electronic monitoring and recording of Attorney-client communication.”¹²²

Observers commented on the peculiarity of not only this mysterious button, but also of whole military commission process. One reporter stated “it is strange. They [the commission] are going through the process – the trial process. But this isn’t just a federal trial or a military trial. It’s like they’re trying to infuse the proceedings with a little bit of both, so they’re basing decisions and making rules as they go, and it’s a process that seems like they have a lot of questions about.”¹²³ While, in one sense, the military commission process betrays “a ghostly and forceful resurgence of sovereignty in the midst of governmentality”, as “neither the decision to detain nor the decision to activate the military tribunal is grounded in law”, these decisions are simultaneously “determined by discretionary judgements that function within a manufactured law or that manufacture law as they are performed.”¹²⁴

Conclusion

In this chapter, I have shown that Guantánamo Bay is a space shaped as much by its particular legal and geopolitical histories as by simultaneous withholding of and close proximity to law. What is most salient, for the remainder of this dissertation, is what – or who – emerges from the apertures

¹²² Krishna Andavolu, “Strange Things are Happening at Khalid Sheikh Mohammed’s Trial”, *Vice*, February 3, 2013. Accessed November 12, 2017. www.vice.com/en_ca/strange-things-are-happening-at-khalid-shiekh-mohammeds-trial

¹²³ Krishna Andavolu, “Strange Things are Happening at Khalid Sheikh Mohammed’s Trial”, *Vice*, February 3, 2013. Accessed November 12, 2017. www.vice.com/en_ca/strange-things-are-happening-at-khalid-shiekh-mohammeds-trial

¹²⁴ Butler, *Precarious Life*, 58.

between and within past and present, and between the exception and the norm. While it is indeed the liminality of the legal and political subject produced by and within law that also marks detainees as subject *to* the camp, this marking depends also on a conceptualization of specific kinds of subjects as “*homo sacer*”, or, more specifically, as “unlawful enemy combatants”, and as “detainees”. While the classification, hierarchizing, and categorizing work necessary to conceptualize these subjects as such is to be found within distinct historical and cultural forces, it can also be found in law that is legitimized under the cover and claim of legal exceptionalism.

The legal and political subject produced by Guantánamo, and the law it is both embedded within and removed from, have also created and sustained the conditions for specific forms of violence within the camp. These conditions are enacted against and through the bodies of detainees, and they also demand being shown and displayed. The central role of imagery as a key feature in the figuration of the detainee as embodied and (il)legal – gendered, racialized, Muslim, subjugated, and in thrall to law while simultaneously being outside of its grace – is made evident in the taking and dissemination of images of men in this space. These highly regulated visual events and scenes were (and are) taken and circulated for a reason, and evoke, or seek to evoke, and produce specific associations, as well as bodies and zones of indistinction made all the more so through techniques of distinction.

In the following chapter, I seek to further particularize these claims. As Elizabeth Dauphinee argues, “the drive to make visible the body in pain often

evokes a particular kind of seeing".¹²⁵ It is from within this relation between visibility, body, pain, and particular ways of seeing that I ask, what kinds of seeing and what calculations of pain are evoked when state violence is enacted against and through the male *Muslim* body? Offering an intervention into the conversation about the effects of post-9/11 American state violence on Muslim populations (both domestic and international), the following chapter argues that central to understanding how the multiple violences of the "war on terror" (un)make bodies and subjectivities is a consideration of how both the material and immaterial collide and conflate in the male Muslim subject and body. In these confluences, a relationship between Muslim subjects and bodies, visual practices, and state violence emerges. This relationship is largely shaped by the ways in which these processes are read through a specific lens of "Muslim-ness". Specifically, I argue that framing of religion – specifically and particularly, the Muslim religion - as ideological drive, as borne on the surface of the skin and lived through the bodies of adherents, and as dependent upon physical evidence and expression, works to further delimit the violence aimed at Guantánamo's detainees.

¹²⁵Elizabeth Dauphinee, "The Politics of the Body in Pain: Reading the Ethics of Imagery", *Security Dialogue* 38, no. 2 (2007): 140.

Chapter 2: The Male Muslim Body

Introduction

I am a victim of the United States in its war on terror. For nearly 12 years, I was held by the US military at Guantánamo Bay, without charge, trial or fair process to challenge the legality of my detention. I was held without any legitimate basis...I was humiliated, tortured and abused, and discriminated against as a Muslim man...I know from my experience that Guantánamo was created to destroy people, to destroy Muslims, who are the only people to have been held there, and it has nearly destroyed me.¹²⁶

Testimony of former detainee Djamel Ameziane, 2017

The conditions under which post-9/11 Guantánamo emerged have cast the camp as a particular kind of legal and geo-political space, wherein there was (and remains) a simultaneous excess of law and a diminishment of the rights that are meant to attach to it. The detainees who languish there are marked also by this vacillation between surfeit and loss; they simultaneously share a (truncated) proximity to politics, law, and humanity, and exceed these boundaries. They also *appear* as both extraordinary subjects and bodies requiring extraordinary measures of containment, and as the paradigmatic encapsulation of “bare life” that subsists within the camp of modern geopolitics.¹²⁷ As Tagma points us towards, there is something more at work, here, however – a classificatory

¹²⁶ Djamel Ameziane, “In landmark hearing today, Djamel Ameziane, formerly detained in Guantánamo, calls for reparations, an apology, and action”, Center for Constitutional Rights, https://ccrjustice.org/home/blog/2017/09/07/landmark-hearing-today-djamel-ameziane-formerly-detained-guant-namo-calls?utm_content=bufferaac30&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.

¹²⁷ Giorgio Agamben, *Homo Sacer, Sovereign Power and Bare Life* (Stanford: Stanford University Press, 1995).

system that precedes and prefigures the detention camp, depends on particular calculations of both subjectivity and materiality, and determines and legitimates the ways in which American state violence and visual practices take form, target, and are endured by certain bodies.¹²⁸ In this chapter, the theoretical foundation for an analysis of the relationship between state violence and the Muslim body – particularly, the *male* Muslim body – is established through a consideration of this material reality and the ways in which it is encountered: as differentially embodied, materially distinct, and as ideologically-riven. These encounters are largely shaped by a particular reading of “Muslimness”, wherein religion, or ideology, becomes what Butler calls “a matrix for subject formation”.¹²⁹ This chapter therefore also provides an analytical framework through which I argue that it is only by attending to the particularities of “Muslimness” as a subject/body-matrix, wherein subjectivity and embodiment (as well as materiality) form and inhere to each other in mutually constitutive, intractable ways, that we may understand how discursive, political and material constructions of the Muslim subject/body give rise to a taxonomy of this figure, and to shape its relation to state violence.

In the first section of this chapter, I ground my understanding of “the body” by emphasizing it as a concept that has traversed a rich theoretical and political life, from a bounded, essentialized, and deeply racialized and gendered notion, to the object and subject of biopolitical power and discipline, to

¹²⁸See Tagma, “Homo Sacer vs. Homo Soccer Mom”, 410, and his argument that “historical relationships, cultural interactions, and racial and gender differences have much to do with the production of a so-called homo sacer.”

¹²⁹Judith Butler, “Sexual Politics, Torture, and Secular Time,” *The British Journal of Sociology* 59, no. 1 (2008): 13.

embedded both within its materiality and the socially constructed norms which mediate it. In the second part of this chapter, I delve further into the role that the male body plays in the “war on terror”. I suggest that normative frameworks related to gender (and sexuality) function to further concretize the male Muslim body – both discursively and materially – as distinctly othered. Foregrounded against a history of Orientalist thought, these framings also work to situate this body in a particular relation to violence – as both the progenitor of it and as the object of specific and necessary techniques of discipline and/or biopower. In the third section, I investigate further how the assignation of “Muslim” functions as the focal point through and against which these subject/bodies are further framed, encountered, and met with violence. I argue that “Muslim-ness” renders religion and ideology as not just emitting from subjects and bodies, but also as expressed, represented, and lived upon the surface of the body. Evidence of “Muslimness” is thus taken not only as an indicator of identity, but also as the amalgam of inner and outer worlds, of materiality and immateriality that meld together to reform the body into a topology: of ideology, of socio-political belonging and exclusion, and of particular aversions and attachments to violence.

A caveat is necessary here: the intervention offered by this chapter is not to suggest that the “male Muslim body” has travelled a tidy or linear path, emerging from the depths of colonialism and re-emerging in a current socio-political era marked indelibly by the “war on terror”. Instead, I put forth a conceptualization of this body as both over-determined and opaque, as simultaneously a-historical, historically embedded, and distinctly modern, and as existing in both spectral and concrete forms. Such a reading may well be

subject to charges of essentialism as to the very idea of the “male Muslim body”, not to mention around “maleness”, “Muslims”, and “bodies” as separate, distinct, and contested categories. However, I approach these topics inspired by Gayatri Spivak, where she advocates for “the strategic use of a positivist essentialism [for] a scrupulously visible political interest”¹³⁰, and offer this chapter as one that sets the general parameters around which we may theorize about this specific body, in the interest of further understanding its emergence as both the “instrument and target of diffuse power.”¹³¹

2.1 Contending with the “Body” in Modern Socio-Political Thought

The concept of the “body” has long occupied a prominent and contested place within the social science and philosophical traditions, especially in relation to notions of sovereignty, liberalism, and the boundaries of political and social orders.¹³² Lauren Wilcox, in *Bodies of Violence*, provides an incisive account of how the body has come to be known through liberal notions of sovereignty, where it emerged as something both stable and natural. The idea of the subject that is at the root of liberal political thought is constructed as a “rational, autonomous individual who is entitled to a sphere of freedom from government interference.”¹³³ This liberal subject has ownership over his body, which serves as

¹³⁰ Gayatri Chakravorty Spivak, “Subaltern Studies: Deconstruction Historiography”, in *The Spivak Reader: Selected Works of Gayatri Chakravorty Spivak*, eds Donna Landry and Gerald MacLean (London: Routledge, 1995), 214.

¹³¹ Amit S. Rai, “Of Monsters: Biopower, Terrorism and Excess in Genealogies of Monstrosity”, *Cultural Studies* 18, no. 4 (July 2004): 538.

¹³² Bryan S. Turner, *The Body and Society: Explorations in Social Theory* (Thousand Oaks, Sage Publications, 1996), 1, 5.

¹³³ Lauren B. Wilcox, *Bodies of Violence: Theorizing Embodied Subjects in International Relations* (New York: Oxford University Press, 2015), 22.

the tool by which his rational desires may be achieved. In this, Wilcox argues, “there is a radical disjunction between subjects and bodies; bodies are the necessary condition, the *sine qua non* of politics, but are outside politics itself, as their use is to fulfill the aims of subjects.”¹³⁴ The gendered and racialized nature of this subjectivity is also clear: just as the liberal subject is inherently rational and not given over to the passions of the body, he is also inherently “white, bourgeois, and heterosexual.” Unsurprisingly, “those whose bodies are outside the standard set by white, bourgeois, heterosexual men are considered to be improperly embodied, and thus to be incapable of the reason required for participation in public life.”¹³⁵ Full political subjectivity is extended to those who also claim the correct kinds of bodies, whereas those who cannot – “workers, the colonized, the enslaved, and women” – are marked as “other”.¹³⁶

The ontological certainty through which the liberal subject’s body unfolds has been disrupted by the work of a host of critical scholars. Of particular note is the concept of biopolitics, as developed by Foucault. In Foucault’s theory, overt forms of sovereign political power became, over time, entwined with more regulatory powers over the life and death of populations. The biopolitics that emerged, and its biopower, focused on the regulation, discipline, and surveillance of the body, both in its individuated form and as that which makes up populations. Foucault emphasized how this “organization of power over life”¹³⁷ took place around these two manifestations of the body, where

¹³⁴ Wilcox, *Bodies of Violence*, 22.

¹³⁵ Wilcox, *Bodies of Violence*, 22.

¹³⁶ Wilcox, *Bodies of Violence*, 22.

¹³⁷ Michel Foucault, *The History of Sexuality, Volume One: an Introduction* (New York: Random House, 1981), 139.

biopower's disciplinary mechanisms targeted both individual bodies and the species as a body. In this process, the population was rendered both a political and biological reality, while the flows of power exerted against and through it were both political and scientific. Biopolitics also "employ[s] a productive definition of power, as well as the coercive power of violence", where "rather than working on bodies as sovereign power, power works through bodies to shape subjects."¹³⁸

Agamben, in his notions of "bare life" and "*homo sacer*", highlights the manner in which biopolitics is inextricable from modern political life. As noted in Chapter 1, the "*homo sacer*" has no political subjectivity, and can thus be sacrificed at will by sovereign power without ever being recognized as having been killed. It is, in this sense, reduced to "bare life". "Bare life" reveals the justificatory frameworks that structure political and state violence, wherein the need to protect populations against threats necessitates violence against those who would imperil them.¹³⁹ In this framework, biopolitics both naturalizes and de-naturalizes bodies as biological realities:

[B]iopolitical practices of security take a naturalized body as their object to be protected, while a deeply 'unnatural' body is constituted as threatening. Such bodies are constituted as unreasonable, excessive bodies that cannot be dealt with through normal politics, but only through violence. In this way, contemporary practices of security produce certain bodies as normal and others as aberrant and unmanageable. Violence against these deviant bodies is made necessary in order to preserve these naturalized bodies [and] is framed as a technical problem to be managed using expert knowledge, rather than as an existential threat or a violation of norms.¹⁴⁰

¹³⁸ Wilcox, *Bodies of Violence*, 23.

¹³⁹ Wilcox, *Bodies of Violence*, 23.

¹⁴⁰ Wilcox, *Bodies of Violence*, 26-27.

While both the work of Foucault and Agamben allow for an understanding of how power – specifically, biopower – works to both create and cast aside bodies, feminist critiques of the body as it relates to gender and politics have troubled the very idea of it as bounded, natural, clearly definable, and / or as a biological reality with any meaning. Indeed, feminist theories has been front and center in speaking back to the theoretical stranglehold liberalism has maintained on the notion of political subjectivity, wherein political subjects are ahistorical, rational, universal, and largely disembodied. Much of the work of feminist scholarship has been focused on unraveling the deeply gendered nature of these characterizations, and on identifying the relations between power, subjects, and bodies, as it is within the contours of this relationship that the roots of gendered violence and subordination can be found. It has done so partly through arguing that gender is a phenomenon born of the confluence of social, cultural, and political forces, rather than from any biological reality. We may take here Simone de Beauvoir’s radically influential statement as formative: “One is not born, but rather becomes, a woman.”¹⁴¹

Differences, then, between genders, are not based in any concrete facts – they are determined by forces that can be otherwise, including “the mediation of another.”¹⁴² In other words, meaning is given to the body, rather than residing within it. Indeed, as Butler notes, the body becomes the arbitrary, rather than the fixed, locus of gender.¹⁴³ To “be” a gender, then, is “to be engaged in an ongoing

¹⁴¹ Simone de Beauvoir, *The Second Sex*, trans. Constance Borde and Sheila Malovany-Chevallier (New York: Random House, 2009), 283.

¹⁴² de Beauvoir, *The Second Sex*, 283.

¹⁴³ Judith Butler, “Sex and Gender in Simone de Beauvoir’s *Second Sex*”, *Yale French Studies* 72 (1986): 35.

cultural interpretation of bodies, and, hence, to be dynamically positioned within a field of cultural possibilities.”¹⁴⁴

Feminist scholarship is not alone in making these arguments, as critical theorists from a variety of fields – including critical race and post-colonial theorists – have also emphasized the ways in which ethno-racial and cultural differences (and the subjects and bodies who bear them), once thought to be natural, are instead formed, reproduced, and disrupted by the ebbs and flows of discursive and productive power. While the body is given over to cultural interpretation, therefore destabilizing its fixity as a given entity, these interpretations are still routed *through* the body.

The foundational work of E. A. Grosz also offers an alternative to many feminist cultural theories around the body, which, in resisting a reading of the body in its materiality, results in a “strange de-corporealization.”¹⁴⁵ This resistance, for Grosz, leads to analyses of the body as largely a discursively rendered figure, best understood through the study and critique of representations, rather than through materialist lenses.¹⁴⁶ Grosz argues that bodies *qua* bodies – in other words, as anatomical, physiological, and material – should be engaged with, so as to trace the “transformations and upheavals that ... transform biological accounts.”¹⁴⁷ Moreover, it is the body as “pliable flesh” which provides the “unspecified raw material of social inscription that produces

¹⁴⁴ Butler, “Sex and Gender”, 36.

¹⁴⁵ E. A. Grosz, *Space, time, and perversion: essays on the politics of bodies* (New York : Routledge, 1995), 31.

¹⁴⁶ Grosz, *Space, time, and perversion*, 31.

¹⁴⁷ Grosz, *Space, time, and perversion*, 31

subjects as subjects of a particular kind.”¹⁴⁸ Theorizing from this perspective allows bodies to not only retain their materiality, but to also be understood through and against their particular corporealities and those transformations and upheavals that transform and produce subjects (and bodies) of a certain kind.

Bernadette Wegenstein notes that cultural theorists, in an attempt to “differentiate between the body as a static concept – a biological given – and the body as the basis of concrete and historically situated experience, have introduced a distinction between the body and *embodiment*.”¹⁴⁹ Contrasting the body, and yet attending to its experiences, “embodiment is contextual, enmeshed within the specifics of place, time, physiology, and culture, which together compose enactment. Embodiment thus refers to how particular subjects live and experience being a body dynamically, in specific, concrete ways.”¹⁵⁰ Scholarship on embodiment and corporeality thus “stress[es] the body as a set of potentialities rather than externally imposed norms in order to account for the possibility (and actuality) of resistance and change in ... norms and subjectivities.”¹⁵¹ For Wilcox, understanding embodiment in this way offers a corrective to Foucault and Agamben, whose theories render bodies docile and awaiting the imposition of discipline and biopower.¹⁵²

I engage with the above theories in order to offer an analytic framework for attending to the particularities of the male Muslim body. While it is a body

¹⁴⁸ Grosz, *Space, time, and perversion*, 32.

¹⁴⁹ Bernadette Wegenstein, “Body”, in *Critical Terms for Media Studies*, eds. W.J.T. Mitchell and Mark B.N. Hansen (University of Chicago Press: Chicago, 2010), 20.

¹⁵⁰ N. Katherine Hayles, *How We Became Posthuman* (Chicago: University of Chicago Press, 1999), 197.

¹⁵¹ Wilcox, *Bodies of Violence*, 45.

¹⁵² Wilcox, *Bodies of Violence*, 45.

that is discursively rendered, it is also fixed in particularly stubborn ways, wherein this fixity emerges from and within the material confines of the body. The “pliable flesh” and potentialities of this body bends in certain directions. At the same time, it is hyper-corporeal, given over as it is to embodying and enacting intents and drives *through* the body, wherein the body is not just a useful outlet for these purposes, but also appears as their very materialization — as ideology animated, given flesh and blood and capacities that elide any remaining boundaries between subject and body and that enmesh embodiment within the contours of the male Muslim body.

A useful illustration of these entanglements is offered by Joseph Pugliese, who, in a detailed description of an American federal law enforcement guide that profiles would-be suicide bombers, accounts for the ways in which a combination of biotypologies and sensorial associations work to characterize the figure of the male terrorist. In this characterization, terrorist bodies function as both the extension of ideological intent and as tools of violence. In explaining how to spot a terrorist, the guide asks: “does the individual act oddly, appear fearful, or use mannerisms that do not fit in? Examples include repeatedly circling an area on foot or in a car, pacing back and forth in front of a venue, glancing left and right while walking slowly, fidgeting with something under [their] clothes, exhibiting an unwillingness to make eye contact, mumbling (prayer), or repeatedly checking a watch or cell phone.”¹⁵³ It is not just mannerisms or bodily movement that betray intent. Smell also even operates as

¹⁵³ Joseph Pugliese, “Biotypologies of Terrorism,” *Cultural Studies Review* 14, no.1 (January 2008): 52.

an indicator of the violence that is sure to follow in its wake. “Is the individual wearing too much cologne or perfume, or do [they] smell of talcum powder or scented water (for ritual purification)?”¹⁵⁴; if the answer to any of these questions is yes, then law enforcement should be on alert for violence. In Pugliese’s reading of the guide, he notes that such framings construct Muslim bodies as “already in excess of themselves,”¹⁵⁵ as intent not only leaks from its corporeal confines but is, for the observant observer, expressed through this same body in a way that betrays its purpose. I argue that the materiality of this body is thus not only made coextensive with discourses of pathologization and violent intent,¹⁵⁶ but is also encountered as the physical manifestation of religious will.

This argument allows us to attend to how such bodily excesses of “Muslimness” bind subject and body to one another in specific ways and come to impact the forms of violence with which this figure is met. As Wilcox argues, “contemporary practices of violence necessitate a different conception of the subject as embodied, [wherein] the body of the subject is ontologically precarious, not given by nature but formed through politics, and is both produced by politics as well as productive of [politics].”¹⁵⁷ Moreover, this conceptual positioning allows for an understanding of how specific aversions and vulnerabilities become read onto this body, and how they work to fix it in both socio-political and ontological spaces, and to mark it as fit for specific forms

¹⁵⁴ Pugliese, “Biotypologies of Terrorism, 54.

¹⁵⁵ Pugliese, “Biotypologies of Terrorism, 54.

¹⁵⁶ Butler, *Precairous Life*, 74.

¹⁵⁷ Lauren Wilcox, “Bodies of Violence: Theorizing Embodied Subjects in International Relations”, *The Disorder of Things*, <https://thedisorderofthings.com/2015/07/12/bodies-of-violence-theorizing-embodied-subjects/>.

of violence. This approach dovetails with and augments research pertaining to how discursive structures and techniques of discipline, often in the service of law and state, mark “othered” bodies and determine the manner in which they are regulated and met with violence.

2.2 The In(vulnerable) Muslim Man: Gender and the Intelligibility of Violence

Given the above intellectual backdrop, there is a brief caution to be made with regard to my use of gendered language and, as an extension, the notion of “male”. As has been noted, feminists, alongside most post-structuralist thinkers, conceive of gender as non-static, socially situated, and relational. Indeed, to this latter point, any discussion of Muslim “maleness” would seem lacking if it failed to point out the extent to which such constructions are drawn in relation to Muslim woman, especially given how politically fraught the latter category remains. However, while attending to the constructedness and relationality of gender, I also contend that it is vital to understand how a combination of gender and religion imbricate this body and mark it as the one most readily subsumed under the categories as “terrorist”, “enemy combatant”, or “detainee”, and as the target of explicit forms of discipline and violence. Moreover, I choose to theorize around this body largely detached from considerations of the relational quality of gender precisely because of the manner in which it has become over-determined in its relationality. I argue that there is value in thinking about and through this figure – how it emerged, circulates, and is violently contended with – on its own terms, rather than fixing an analysis on terrain that reinscribes it with problematic assumptions as to its “troubled” relations to others.

In keeping with these parameters, I use the term “male”¹⁵⁸ in a very specific manner: as an indicator of what is taken as visually evident from the corporeal body– in other words, as an assignation that emerges from a confluence of physical and bodily characteristics that are themselves embedded in particular socio-cultural histories and contexts. In doing so, I do not intend to reify gender as concrete, essential, or as purely physical/biological. However, I do wish to signify the specific manners in which the male Muslim body is constructed and understood, and so approach this figure as materialized and rendered intelligible (or un-intelligible) *as* a body and a subject in particular ways. These ways are given over to flows of productive power and techniques of discipline, and mark it as both the object and subject of violence in such ways as to collapse any such distinctions. As Kristin Bergtora Sandvik notes, theoretical engagement with notions of maleness are especially needed given the “scale and nature of [the] gendered form of social suffering” that marks recent humanitarian crises”, despite the fact that in disciplinary fields relevant to this area, “men have been largely invisible as analytical subjects.”¹⁵⁹ Sandvik argues, “once one does the body count in the physical and political world of unrest and violence ... those bodies by a large majority belong to a specific subset of males. Battle deaths, torture, unlawful imprisonment, disappearances, and extrajudicial killings overwhelmingly affect young poor men of non-Caucasian ethnicity.”¹⁶⁰

¹⁵⁸ I also choose to use the word “male” as opposed to “masculine” because of the latter’s association with gender and the attributes, behaviors, and roles that supposedly constitute “men”.

¹⁵⁹ Kristin Bergtora Sandvik, “Technology, Dead Male Bodies, and Feminist Recognition: Gendering ICT Harm Theory”, *Australian Feminist Law Journal* 44, no. 1 (2018): 54.

¹⁶⁰ Sandvik, “Technology, Dead Male Bodies, and Feminist Recognition”, 50.

Attending to the notion of male vulnerability and harm allows for a greater understanding of how gendered, racialized, and religion-based logics produce accounts of who can and should be protected against violence in times of war.¹⁶¹

Scholarship on post-9/11 tactics of surveillance and policing highlight the ways in which a gendered reading of the Muslim subject is intertwined with larger normative assumptions. As Krista Hunt and Kim Rygiel detail, profiles of Muslim men believed to be involved in terrorist-related activities have “broadened ... from Orientalist representations of the terrorist as uneducated, poor and desperate to one of a well-educated, middle class, professional man whose actions are deliberative and calculated.”¹⁶² This profile now includes men in “economically productive age brackets, often employed in fields such as computer programming, business, science and technology.”¹⁶³ The notion that male Muslims can inhabit multiple possible iterations is thus less an expression of identity fluidity than it is an indicator of a potential for threat. Indeed, it is precisely the apparent ability of the Muslim body to shift and morph that marks it as an infiltrator of “so-called ‘civilized nations.’”¹⁶⁴

As both highly visible and invisible (where it is capable of “passing”), the male Muslim body is thus deemed more fit for classificatory and disciplinary regimes, where the need for regulation and surveillance is heightened. In a

¹⁶¹ Sandvik, “Technology, Dead Male Bodies, and Feminist Recognition”, 51. This insights can also be placed within larger theoretical conversation with the field of critical masculinity studies. See, for example, Raewyn Connell, *Masculinities* (Berkeley: University of California Press, 1995).

¹⁶² Krista Hunt and Kim Rygiel, “(En)gendered War Stories and Camouflaged Politics”, in *Engendering the War on Terror: War Stories and Camouflaged Politics*, eds. Krista Hunt and Kim Rygiel (London: Ashgate Publishing, 2007), 13.

¹⁶³ Nandita Sharma, “White Nationalism, Illegality and Imperialism”, in *Engendering the War on Terror: War Stories and Camouflaged Politics*, eds. Krista Hunt and Kim Rygiel (London: Ashgate Publishing, 2006), 148.

¹⁶⁴ Sharma, “White Nationalism, Illegality and Imperialism”, 149.

similar vein, Nandita Sharma notes that the use of “Arab men” as a synonym for “Muslim men” is an indication of the manner in which ethno-racial and religious categories are entangled and interchangeable in the war on terror.¹⁶⁵ However, this shift is not only a result of Orientalist discourses that elide or ignore completely such differences; it is also an indication of the fluidity of the male Muslim body, as physical markers taken as evidence of either “Arabness” or “Muslimness” can be donned just as they are shorn (quite literally, in the case of facial hair taken as an indication of religiosity and/or ethno-cultural belonging).

While attending to the knowability and visibility of this body is an important step towards understanding both its genealogy and how it comes to function in socio-political and juridical realms, it is thus also useful to call attention to how such knowledge also emerges from a certain kind of *unknowability* and *invisibility*. In other words, although marked as materially and ideologically gendered and othered based on largely uncomplicated visual and sensorial cues (facial hair, dress, physiology), the male Muslim body is also understood as one that just as easily escapes or evades attention. Therefore, while he is “entirely knowable and visible”, both through the ascription of material, gendered, and religio-racialized attributes, and through the close association of this body with a politico-religious ideology which affixes to and demands expression via these same materialities, he is just as able to easily divest himself of its cues and codes in order to evade detection. In this manner, knowledge and non-knowledge, and visibility and invisibility, not only work in tandem in their inscription on this body, but knowability and visibility emerge

¹⁶⁵ Sharma, “White Nationalism, Illegality and Imperialism”, 123.

from, are dependent upon, and, indeed, sustain unknowability and invisibility in a simultaneous, interchangeable, and interdependent manner. This reading lends itself to understanding how it is that the male Muslim body, as one that is so apparently highly visible and easily locatable, stubbornly persists as both static and evasive, and as both strange and “othered” even as it is entirely knowable and readily identifiable.

While gender operates to stabilize the male Muslim body as such, it also works to disrupt it, through a calling into question of the masculinity and/or sexuality of male Muslim bodies. A focus on gender, (aberrant) masculinity, and the hyper/homo-sexuality of colonial bodies are indeed hallmarks of Orientalism. For Said, this focus mirrored the political and social power relations that underscored relations between East and West. Orientalism was the epitome of a “male power fantasy”¹⁶⁶, operating to subjugate the Orient through the feminization and sexualization of this space and the people who occupied it. The East, both as a geographical landscape and as embodied through its populations, was conceived of as “penetrable” and “conquerable”. In this way, “gender and sexuality become important tropes for power relations that are played out in the relationship between colonizer and colonized. Discourses of male sexuality become a way of articulating asymmetrical power relations on the imperial terrain.”¹⁶⁷

¹⁶⁶ Said, *Orientalism*, 6.

¹⁶⁷ Justin D. Edwards, *Postcolonial Literature: A Reader's Guide to Essential Criticism* (New York: Palgrave Macmillan, 2008), 98.

In *Effeminism: The Economy of Colonial Desire*, Revathi Krishnaswamy uses the notion of “effeminism” to refer to the “racialized pathologization of ‘femininity-in-masculinity’” that characterized colonial relations. She writes:

Said’s interpretation of colonial erotics further assumes that feminization of colonized territory establishes male ownership over a female body. *...however, is often more about emasculating a male than about possessing a female.* The ultimate goal of authorizing a European claim to ownership through a feminization of India was to establish the dominance of white men not over brown women but over brown men... In other words, ...the real goal of feminization is effeminization – a process in which colonizing men use women/womanhood to delegitimize, discredit, and disempower colonized men.¹⁶⁸

This is not to suggest that there is a necessary connection or conflation between gender, processes of effeminization, and sexuality. What is important, however, is to highlight how the ascription of “deviant” masculinity and sexuality to male Muslim bodies, in either its hyper-masculine *and/or* effeminized guises, becomes entangled with techniques of discipline and violence in the “war on terror”. Ideas around the aberrant sexuality of the Muslim body indeed operate as central concepts in terrorism studies, and the culturally specific techniques of torture used in war on terror spaces “surge[d] together to create the Muslim body as a particular typological object of torture.”¹⁶⁹ These were informed by “normativizing knowledges of modernity that mark[ed] [it]...both as sexually conservative, modest and fearful of nudity ...as well as queer, animalistic, barbarian, and unable to control his ... urges.”¹⁷⁰

¹⁶⁸ Revathi Krishnaswamy, *Effeminism: The Economy of Colonial Desire* (University of Michigan Press, 1999), 3, italics added.

¹⁶⁹ Jasbir Puar, “Abu Ghraib and U.S. Sexual Exceptionalism,” *Works and Days* 29 (2011): 120.

¹⁷⁰ Jasbir Puar, “Abu Ghraib and U.S. Sexual Exceptionalism”, 121.

Jasbir Puar and Amit Rai, in their article “Monster, Terrorist, Fag”, note that the male Muslim body is perceived both as the carrier of deviant sexual predilections, and as a failed heterosexual (where heteronormativity is the proper domain of the West). To that end, they argue that pathologies ascribed to terrorist bodies by military and political discourse are rooted not only in the apparent sexual obsession and perversions of the terrorist, but also in this ultimate sexual failure.¹⁷¹ Puar also argues that the sexual humiliation and torture of Iraqi prisoners in Abu Ghraib was informed by a desire to create a distinction between the depravity of the East and the Western project of freedom, and to also assert the normative masculinity, or “aggressive heterosexual patriotism”¹⁷², of the latter.

Using the term “homonationalism” to describe the interrelationship and tensions between nationalism, sexual torture, and the sexuality of male Muslim bodies, Puar offers that “homonationalism work[ed] biopolitically to redirect the devitalizing incident of torture toward a population targeted for death into a revitalizing life-optimizing event for the American citizenry for whom it purports to securitize.¹⁷³ Butler agrees that the perceived shame Muslims hold around homosexuality was a driving force behind techniques of torture in Abu Ghraib.¹⁷⁴ She suggests that acts of humiliation and torture aimed at male Muslim bodies were coercive and “forced instatement[s] of a cultural order that figures Islam as [an] abject, backward, foreboding ruination and, as a

¹⁷¹ Jasbir Puar and Amit Rai, “Monster, Terrorist, Fag: The War on Terrorism and the Production of Docile Patriots, *Social Text* 72, 20, (3), 2002: 117.

¹⁷² Jasbir Puar and Amit Rai, “Monster, Terrorist, Fag”, 117.

¹⁷³ Jasbir Puar and Amit Rai, “Monster, Terrorist, Fag”, 116

¹⁷⁴ Judith Butler, “Sexual Politics, Torture, and Secular Time”, 17.

consequence, requiring subordination within and exclusion from the culture of the human itself.”¹⁷⁵ Sexual torture, in this context and aimed at this particular body, was a celebration of the sexual freedom of those who enacted such violence, and a reaction to the supposed repression and abjectness of those who deny sexual pleasure. Moreover, the targets of torture were further marked as excluded and as necessitating these forms of violence, in order to express the inner and outer boundaries of the cultural order.

It is in this coercive naming of the tortured male Muslim body as “unfree” that Butler differentiates between torture that emerged from “disciplinary regimes of subject formation that would seek to transform the tortured into exemplary modern subjects” and the torture at Abu Ghraib, which instead sought to expose what was already presumed and perceived to be present: “permanent, abased, aberrant [and] outside to subject-formation”¹⁷⁶ Muslim bodies. While such tactics functioned as methods of further opening this body to specific forms of violence that “delegitimized, discredited, and disempowered” them, they can also be taken as pointing further to the aforementioned fluidity of this body, as it moves across boundaries between (deviant) heterosexuality and homosexuality, occupies both categories simultaneously, and is met with the forms of violence unique to each. In other words, such slippages, rather than disrupting technologies of discipline, work to stabilize and deepen violence, as it is enacted against both the physical bodies of transgressors and, simultaneously, against the ideologies to which are thought to give expression. As Puar argues,

¹⁷⁵ Butler, “Sexual Politics, Torture, and Secular Time”, 17.

¹⁷⁶ Butler, “Sexual Politics, Torture, and Secular Time”, 17.

what was driving violence at Abu Ghraib was the belief that the taboo against homosexuality in Islam would result in prisoners suffering from two-fold harm: the effects of physical torture and psychological humiliation and violation.¹⁷⁷

Conceptions based around how violence is experienced by Muslim bodies in the “war on terror” is foregrounded against specific intellectual traditions that have been adopted and put into use by the American military. This tradition best encapsulated by the work of Raphael Patai’s *The Arab Mind*. In his 1973 account, Patai details a culture and people defined by sexual taboo, violence, and an array of repressions, and he grounds his thesis by first describing the apparent ungovernability and easily aroused violence of the Arab personality, which emerges from and is sustained not only by cultural and religious norms, but also through this population’s very notion of “human nature”. Patai states that “in the Arab view of human nature, no person is supposed to be able to maintain incessant, uninterrupted control over himself. Any event that is outside routine everyday occurrence can trigger such a loss of control ... Once aroused, Arab hostility will vent itself indiscriminately on all outsiders.”¹⁷⁸ Patai dedicates an entire chapter to Arab sexual mores, which depicts sex as marked by taboo, shame, and repression, and Arabs as both sexually repressed and as sex-obsessed: “The segregation of the sexes, the veiling of the women . . . and all the other minute rules that govern and restrict contact between men and women, have the effect of making sex a prime mental preoccupation in the Arab world,”¹⁷⁹ he writes.

¹⁷⁷ Puar, “Abu Ghraib and U.S. Sexual Exceptionalism”, 125.

¹⁷⁸ Raphael Patai, *The Arab Mind* (New York: Charles Scribner’s Sons, 1973)

¹⁷⁹ Patai, *The Arab Mind*

Patai's work could be dismissed as a relic of the past, except for the fact that, as Seymour Hersh notes, it retains a central role in shaping attitudes and policies in military and political circles. As a "bible of the neocons on Arab behaviour", *The Arab Mind* has directly impacted the manner in which these Arab (Muslim) minds and bodies have been encountered and governed within the "war on terror". These interactions have been guided by two central themes – "one, that Arabs only understand force, and two, that the biggest weakness of Arabs is shame and humiliation."¹⁸⁰ Such discourses, which ascribed detainees with attributes such as "dangerousness, phenotype, in/humanity, and criminality,"¹⁸¹ not only dehumanized them, but also can be directly linked to the forms of violence enacted against these bodies.

2.3 Apprehension of Violence: Male Muslim Body as a Corporeal and Conceptual Framework

What was my crime? Was being Muslim my crime?¹⁸²

Unnamed Former Guantánamo Bay detainee

As noted earlier in this chapter, I understand religion, following Butler, as, "not simply a set of beliefs or a set of dogmatic views, but a matrix for subject formation."¹⁸³ Religious identity, however, is not only intrinsic to subjectivity,

¹⁸⁰ Seymour Hersh, "The Gray Zone", *The New Yorker*, May 24, 2007

¹⁸¹ Chad Shomura, "These are Bad People", 14.

¹⁸² Alexa Koenig, "From Man to Beast, Social Death at Guantánamo," in *Extreme Punishment: Comparative Studies in Detention, Incarceration, and Solitary Confinement*, eds Alexa Koenig and Keremat Reiter (London: Palgrave, 2015), 225.

¹⁸³ Butler "Sexual Politics, Torture, and Secular Time", 13.

but in the case of the Muslim, it is also inextricably bound up in the material contours, reach, and limitations of this subject/body. In other words, the “nature” of Islam, which demands a reciprocal relation between the physical body of its adherents and the expression of religious identity and will, means that these subject/bodies are constructed and known as much as through their corporealities as through the socio-political, racial, political, and discursive interstices among which they are located. I argue that it is precisely the assignation of “Muslim” that functions as the focal point through and against which these subjects are framed, encountered, and met with violence.

This undertheorized category of difference becomes an important consideration in appreciating how “Muslimness” can come to absorb and subsume other identity categories, and the ways in which the Muslim is encountered: as materially and ideologically distinct, and as the object and target of violence. In these processes, the designation of Muslim, as it becomes known primarily through assumed associations related to bodily evidence (this ranges from complexion, ethnicity, and language, to clothing and facial hair), relies on a framing of religion and ideology as expressed, represented, and lived upon and through the surfaces of the body. Physical and material evidence is thus taken not only as an indicator of identity, but as indication of the ways in which this subject is encountered as an amalgamation of the corporeal and incorporeal, of materiality and immateriality melding together to re-form the body into a topography: of ideological intent, of socio-political exclusion, and as bearing a specific relation to violence. It is useful to recall here how the “terrorist” couples

suicide and homicide in particular ways, so that self-injury is transformed into a manifestation of an ideological will to “die for a cause.”¹⁸⁴

[T]he ‘suicide bomber’ ...transforms his or her body into a mask that hides the soon-to-be- detonated weapon. Unlike the tank or the missile that is clearly visible, the weapon carried in the shape of the body is invisible. Thus concealed, it forms part of the body. It is so intimately part of the body that at the time of detonation it annihilates the body of its bearer, who carries with it the bodies of others when it does not reduce them to pieces. The body does not simply conceal a weapon. The body is transformed into a weapon, not in a metaphorical sense but in the truly ballistic sense.¹⁸⁵

Agamben’s description of the use of the term *Muselmann*¹⁸⁶ to refer to the victims of concentration camps during WWII is also instructive. Agamben notes that this term operated at times to denote a “medical figure or an ethical category, ... a political limit and an anthropological concept, [and] an indefinite being in whom not only humanity and non-humanity, but also vegetative existence and relation, physiology and ethics, medicine and politics, and life and death continuously pass[ed] through each other”.¹⁸⁷ As a kind of non-human who nevertheless was obstinate in appearing as human¹⁸⁸, the *Muselmann* “mark[ed] the threshold between the human and the inhuman”¹⁸⁹, and as such was a “bare, unassigned and unwitnessable life”.¹⁹⁰ Agamben suggests an anachronistic foundation for the origin and use of this term: “[the] most likely explanation of the term can be found in the literal meaning of the Arabic word

¹⁸⁴ Alison Howell, “Victims or Madmen? The Diagnostic Competition over ‘Terrorist’ Detainees at Guantanamo Bay”, *International Political Sociology* 1, no. 1 (2007): 41.

¹⁸⁵ Achille Mbembe, “Necropolitics”, *Public Culture* 15, no. 1 (2003): 36.

¹⁸⁶ Giorgio Agamben, *Remnants of Auschwitz: the Witness and the Archive*, MIT Press.

¹⁸⁷ Agamben, *Remnants of Auschwitz*, 48

¹⁸⁸ Agamben, *Remnants of Auschwitz*, 81-82

¹⁸⁹ Agamben, *Remnants of Auschwitz*, 55.

¹⁹⁰ Agamben, *Remnants of Auschwitz*, 157.

Muslim: the one who submits unconditionally to the will of God. It is this meaning that lies at the origins of the legends concerning Islam's supposed fatalism, legends which are found in European cultures starting with the Middle Ages".¹⁹¹ Moreover, the particular "resignation" that characterizes the Muslim "conviction that the will of Allah is at work every moment and in even the smallest events" is echoed in the "Muselmann of Auschwitz [who] is defined by a loss of will and consciousness".¹⁹² In a more visceral way, the "prone state of a concentration camp Muselmann" reiterates and calls upon "the image of a Muslim prostrating himself on the ground in prayer."¹⁹³

While Agamben's description of the Muselmann of Auschwitz points to an understanding of the Muslim as one that is *resigned* to and governed by power, both Divine and otherwise, in particular ways, Ghassan Hage argues that the Muslim is also framed and constructed as ungovernable. The marking of a social group as ungovernable is both a reflection of a group becoming associated with certain qualities or features which render them as such, and the "capacity and the limitations of the government apparatus to deploy itself on it, capture it both conceptually and institutionally, and govern it".¹⁹⁴ The feature which most indelibly marks the Muslim as ungovernable lies precisely in its apparent attachment to religiosity; here, Hage is not referring to traditional markers of religiosity (attending services, religious attire, etc.), but to the manner in which

¹⁹¹ Agamben, *Remnants of Auschwitz*, 45.

¹⁹² Agamben, *Remnants of Auschwitz*, 45.

¹⁹³ "Muselmann", Yad Veshem Shoah Resource Centre, The International School for Holocaust Studies, 1.

¹⁹⁴ Ghassan Hage, "Multiculturalism and the Ungovernable Muslim", in *Essays on Muslims and Multiculturalism*, ed. Raimond Gaita (Melbourne: Text Publishing, 2011), 156.

“all aspects of one’s everyday life [is] ruled by the Law of one’s God.”¹⁹⁵ The ability of Muslims to be favourably received in “multicultural” nation-states is thus impeded by the ways in which “seriously religious Muslims ... see as their laws are nothing short of the Laws of God”.¹⁹⁶ This is what marks them as sacreligious to the nation-state, as “the transcendent Muslim political will” of those who “think of themselves as belonging to a politicised transnational Community or Umma [gives] a further earthly flavour to this mode of living under the law of God, transforming it into a kind of metaphysical transnationalism.”¹⁹⁷

Importantly then, this understanding of “Islamic will” leads to a reading of that will as not only other, but as “the will of the enemy.”¹⁹⁸ Hage also notes that as a result, the Muslim body is often a rejected body, one that lies outside of the boundaries and capabilities of nation-state, and whose “primary experience is one of mis-interpellation”. This mis-interpellation is “far more dramatic and emotionally complex than being negatively interpellated, for here, the person recognizes themselves as being interpellated only to find that they are not”.¹⁹⁹ The result of this mis-interpellation is a “fragmented subject”, who can only reassemble and “immunize themselves against the constant threat of psychological disintegration” by further turning toward a faith tradition that offers a competing governmentality to that which attempts to govern it.²⁰⁰ Hage’s

¹⁹⁵ Hage, “Multiculturalism and the Ungovernable Muslim”, 158.

¹⁹⁶ Hage, “Multiculturalism and the Ungovernable Muslim”, 158.

¹⁹⁷ Hage, “Multiculturalism and the Ungovernable Muslim”, 159.

¹⁹⁸ Hage, “Multiculturalism and the Ungovernable Muslim”, 159.

¹⁹⁹ Hage, “Multiculturalism and the Ungovernable Muslim”, 161.

²⁰⁰ Hage, “Multiculturalism and the Ungovernable Muslim”, 162.

findings suggest a framing of the Muslim subject as at once fixed (to its religious tradition) and fragmented (by rejection and mis-interpellation), where these two facets operate simultaneously and in tandem to produce specific ontologies of Muslim subjectivity.

Guantánamo Bay is a space wherein “the abstractions of geopolitics are folded into the intimacies of the human body.”²⁰¹ I argue that the enfolding of human bodies in Guantánamo in circuits of violence is further shaped by an understanding of religion as adhering to detainees in specific ways. This is a distinction that lies at the heart of the phenomenon of Guantánamo, but it is one that is often overlooked. While “Muslimness” works to mark Muslim bodies and subjects as simultaneously passive and willful figures, as Agamben and Hage demonstrate, it also marks them as apt targets for specific forms of detention and violence, wherein these forms are understood as precautions taken against bodies framed as both uniquely and persistently violent. They rely on an understanding of the specific forms of violence that are thought to adhere to and reside in the bodies of Muslims; these forms go beyond the kind of violence that “merely” murders and maims; rather, they are geared towards the ideological and material destruction of a world(view).

Fundamental, then, to an understanding of how state violence functions in response to the fraught landscape that gives birth to the male Muslim subject and body, is the idea that this figure is apprehended in specific ways as an extension of how religion is thought to inhere to it. These apprehensions depend as much on pre-figurations as they do on actual encounters, and build upon a

²⁰¹ Gregory, “The black flag”, 415.

presumption of danger before that danger materializes — indeed, it does not ever require it occurring, and needs only the assumption or anticipation of it in order to shape encounters.

As Pugliese notes, this means that both the presence and absence of what are understood as physical markers of religion are causes for being unsettled, noting that the guide also states, “a male with a fresh shave and lighter skin on his lower face may be a religious Muslim zealot who has just shaved his beard so as not to attract attention.”²⁰² The apprehension with which such bodies are met is thus an anticipatory one, wherein the presumption of violence is cause enough for the Muslim body — shaved or unshaved, walking too slowly or too quickly — to be the cause of anxiety and disquiet. I argue that Muslim bodies are encountered as ideology given material shape, where material capacities, movements, gestures, and both the presence or absence of physical markers, become transmuted into extensions of ideological will. This shape takes form and is bound via the perceived attachments, intent, and capacities it is thought to embody, and by the physical markers it bears (or does not bear), as much as by the affective responses that precede and circulate in its wake.

Conclusion

What is intended to emerge from the above sets of analyses is a conceptual framework for understanding the ways in which religion and materiality weave together in the forming of the Muslim body as the object and target of violence. This framework is necessary for an exploration of how constructed categories of

²⁰²Pugliese, “Biotypologies,” 53.

difference work on and through subjects and bodies, and their relation to practices of violence. In drawing this frame, I relied on a positioning of religion as being borne by and through bodies, and as inhering to the Muslim body in distinct ways. I suggest that understanding “Muslimness” as deeply intertwined with both subject and body formation allows for an analysis of how the male Muslim body operates as a taxonomy unto itself, and as a locus point from which this figure is marked and transformed as the target of violence. Central to this understanding is an accounting of how the Muslim body is apprehended, wherein these apprehensions unfold from a framing of Muslims as ontologically and materially distinct, work reflexively to legitimate the multiple forms of violence that mark Guantánamo Bay, and further concretize the ultimate alterity of this body.

In the next chapter, I interrogate the role of images and visual practices in these processes. As I set out in my introduction, images are productive forces that form the basis of the relationship between legal and political apparatuses of state violence at the camp and the framing of the detainee as uniquely befitting of this space. The above-detailed conceptual framework that accounts for the ways in which the male Muslim body is both constructed and encountered as an intensely *material* and *materialized* figure allows for a further exploration of the visual practices that mark and surface detainee bodies (as male Muslim ones) in these same ways.

Chapter 3: Visual Archives of Difference

Introduction

In order to understand the logics that inform a space like Guantánamo and that allow for the expression of specific forms of state violence, it is necessary to understand the conditions under which this space is made possible, how it takes form, and for whom it is designed. Such understanding is to be found not only in the legal and semi-legal rationales detailed in Chapter 1, but also within the archives of Guantánamo's images. This chapter serves to foreground my claim that photographs are vital sources of information mapping processes of state violence, especially as it pertains to the detention camp, and particularly when it comes to understanding the relationship between the subjects and bodies who inhabit Guantánamo and the specific circuits of violence that surround and shape them. However, they are also more than that. I argue that the camp is not just intimately linked to images and imagery, but that the rationales that shape it do so, in part, through visual practices.

The importance of the visual in shaping and defining events is evident in both the event and aftermath of 9/11. While the precipitating events of the “war on terror” – the September 11th attacks on the World Trade Centers and the Pentagon – were spectacularly violent events, they were also profoundly visual. Broadcast live across the world²⁰³, photographs and videos of that day capture

²⁰³This mass broadcasting, repetition, and proliferation of the images of the 9/11 attacks is a function of what Martin Jay calls “ocularcentrism”. Jay uses this term to critique the ways in which visual images have reached a point of extreme saturation in Western societies. Martin Jay, *Downcast eyes: The Denigration of Vision in Twentieth-Century French Thought* (Berkeley: University of California Press, 1993). Similarly, Chris Jenks notes that “looking, seeking and knowing have become perilously intertwined”. Chris Jenks, “The Centrality of the Eye in Western Culture”, 1, in

what, some 18 years later, are enduring reverberations and legacies: confusion, disorientation, ambiguity,²⁰⁴ and mass violence and destruction.



Figure 2.1 U.S. News & World Report, Sept. 24, 2001

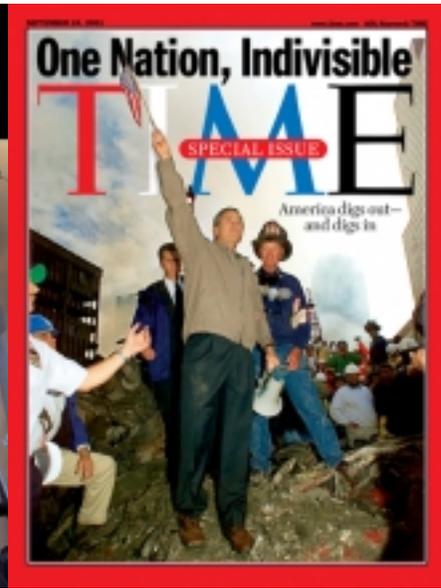


Figure 2.2 Time, Sept. 24, 2001

Visual Culture, edited by Chris Jenks (Routledge: New York, 1995). See also Nicholas Mirzoeff, *Watching Babylon: The War in Iraq and Global Visual Culture* (New York: Routledge, 2005). Mirzoeff examines the relationship between global visual culture and the manner in which the war in Iraq was seen and watched; he argues that unlike previous wars, seeing images of the Iraq war led to increased popular support for it. Weaponized as part of the “military-visual complex”, and operating under the guise of patriotism, the media saturation of war images worked to deaden criticisms of the war. Mirzoeff, *Watching Babylon*, 12, 13, 76. For a counterpoint to these arguments, see W.J.T Mitchell, “Showing Seeing: A Critique of Visual Culture”, *Journal of Visual Culture* 1, no. 2 (2002): 173. Mitchell notes that his own acknowledgement of a visual turn was less an indictment of our modern era, and more so a reflection of how it has become “a thing that is said casually and unreflectively about our time, and is usually greeted with unreflective assent both by those who like the idea and those who hate it. But the pictorial turn is a trope, a figure of speech that has been repeated many times since antiquity”.

²⁰⁴ Robin Wagner-Pacifici notes that in the immediate aftermath of 9/11, reactions from the Bush administration betrayed the manner in which “anachronistic conceptions of the geopolitical world lead to the inability to identify enemies”. This disorientation, both spatial and phenomenological, led to “deitic misrecognitions [that made] things appear to be farther away than they in fact were [and] paradoxically, also [made] things seem closer than they actually were, to the point of seeming ubiquitous”. For example, Afghanistan, once identified as the target, suddenly seemed both very far away and very close to home. See Robin Wagner-Pacifici, “The Innocuousness of State Lethality in an Age of National Security”, in *States of Violence: War, Capital Punishment, and Letting Die*, edited by Austin Sarat and Jennifer L. Culbert, New York: Cambridge University Press, 43-44.

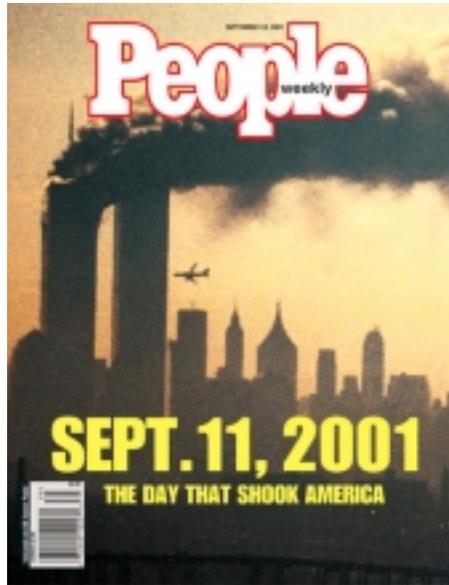


Figure 2.3 *People*, Sept 24, 2001



Figure 2.4 *Newsweek*, Sept. 11, 2001

In the first part of this chapter, I take the concept of visibility as a point of departure, detailing critical accounts of the relationship between visual practices and the dissemination and flow of power. Photographs, imagery, and visual evidence were, and continue to be, central to the expression of American state power, even when these images betray ambiguity, confusion, and contradictions about its reasonings, aims, and effects, and even when they work to both make visible and to invisibilize. In the second section of this chapter, I further consider how visual practices are fundamental aspects of the apparatuses of violence which encompass Guantánamo Bay detainees, and which sustain the multiple categories of difference that mark these subjects. These relations are rooted in the specific role visual practices play in creating and sustaining meaning about racialized and othered bodies, as well as the forms of violence they are met with.

3.1 Visual Practices and the Power of Images

Photographs state the innocence, the vulnerability of lives heading toward their own destruction, and this link between photography and death haunts all photographs of people.²⁰⁵

Susan Sontag, *On Photography*

There is a distinction to be drawn between vision and visuality: “Vision is what the human eye is physiologically capable of seeing...Visuality, on the other hand, refers to [the] way in which vision is constructed in various ways’ – how we see what we see and how we see it is culturally constructed”.²⁰⁶ For Gillian Rose, and others, visuality offers itself as a kind of discourse, where things are *made* visible and invisible – or unseeable – and produced within particular fields of mediated vision.²⁰⁷ Visuality thus understands images as embedded in power relations and social practices, and as being subject to critical inquiry only insofar as these particular contexts can be established and analyzed. Such contextualizations lead to further considerations of the underlying flows of power and authority which produce images and which become articulated through them. In other words, while power relations construct visual fields, mediate legibility and illegibility, and produce images which function as systems of classification, images themselves also work to construct, mediate, and classify.²⁰⁸

²⁰⁵ Susan Sontag, *On Photography*, New York: Anchor Doubleday, 1989, 70.

²⁰⁶ Rose, *Visual Methodologies*, 2.

²⁰⁷ Rose, *Visual Methodologies*, 143.

²⁰⁸ Rose, *Visual Methodologies*, 146. For an example of the productive capacities of visual fields, see Barbie Zelizer, *Remembering to Forget: Holocaust Memory through the Camera's Eye* (Chicago: Chicago University Press, 1998), 7-8. She describes the relationship between collective memory and viewing pictures of atrocities. For Zelizer, collective memories give rise to “a culture’s socially, politically, and economically mandated and sanctioned modes of interpretation”. In this sense, visual artefacts serve as key tools in the legitimation of certain perspectives, as certain images are accepted as representative of truth or as containing necessary information, while also creating the conditions under which other images that may indicate alternative worldviews and perspectives are rejected. Collective visual memory and political processes are thus intimately

Images also, as Butler argues, are made and given shape (imaginatively and materially) through the use of specific “frames”. These frames are both literal – material and/or visual – and representational – indicators of discursive, ontological and/or reflexive norms. Frames thus “not only organize visual experience but also generate specific ontologies of the subject”, shaping the manner in which subjects and bodies become differentiated.²⁰⁹ In this process, “subjects are constituted through norms which, in their reiteration, produce and shift the terms through which subjects are recognized”.²¹⁰ Butler departs from Sontag’s emphasis on photographs as lacking the ability, in and of themselves, to build coherent narratives and give rise to ethical responsiveness²¹¹, a topic I will return to in Chapter 6. Butler understands frames as embedding within the photograph itself the power and force of interpretation, as “in framing reality, the photograph has already determined what will count within the frame”.²¹²

It is important to note that the concept of visual images as authoritative, as inextricably linked to power and authority,²¹³ or as forcibly enacting interpretations in and of themselves, can be problematized. For example, Nicholas Mirzoeff’s *The Right to Look* maps the effects of visibility on various bodies: the

connected, as further evinced by the swath of literature which emphasizes the role of photography during times of violence and war, and indicates that visual evidence is central to cultivating understandings and rationalizations of what constitutes suffering. See Geoffrey Batchen, Mick Gidley, Nancy K. Miller, and Jay Prosser, eds. *Picturing Atrocity: Photography in Crisis* (Chicago: Chicago University Press, 2012); Ariella Azoulay, *The Civil Contract of Photography* (New York: Zone Books, 2008); Barbie Zelizer, *About to Die: How News Images Move the Public* (Oxford: Oxford University Press, 2010), and *Remembering to Forget*, 1998.

²⁰⁹ Judith Butler, *Frames of War: When is Life Grievable*, London: Verso, 2010, 2.

²¹⁰ Ibid, 3-4.

²¹¹ Susan Sontag, *On Photography*.

²¹² Butler, *Frames of War*, 39.

²¹³ See also James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New York: Yale University Press, 1998). Scott argues that the ways in the state knows and sees are bound up in one another, and also to the lives and deaths of populations.

colonized, the enslaved, and those living in the Global South. While the intertwining of visibility and authority was instrumental in subjecting these bodies to violence, Mirzoeff argues that within these enactments were moments of resistance, or what he calls “counter-looking”. He mounts an argument for the use of countervisuality, or “the right to look”, as an action which seizes upon these moments of resistant looking and disrupts the forms of visibility which work to “[suture] authority to power and [render] this association ‘natural’”.²¹⁴

Mirzoeff’s work is important for situating the work and effect of visibility within the framework and context of colonialism, providing an account of resistance through the counter-looking practices of othered and subaltern bodies, and for recognizing that there are always moments in which the relationship of authority to power can be weakened by acts of resistance. However, in the context of the mandated visual image that is disseminated by state forces during times of war, attention must also be paid to how these images occur within a particular set of relations that suture authority, power, and interpretative force in specific and stubborn ways. These ways are further complicated through a consideration of how visual practices can operate as a fundamental part of the aim and logic of state violence that has in its sights specific kinds of subjects and bodies.

To return to Butler’s discussion of images, frames, and authority, she further emphasizes these connections through a careful analysis of how visual

²¹⁴Nicholas Mirzoeff, *The Right to Look : A Counterhistory of Visibility* (Durham: Durham University Press, 2011), 6. See also John Tagg, *The Burden of Representation*, 1988, Allan Sekula, “The Body and the Archive”, in *The Contest of Meaning: Critical Histories of Photography*, ed. Richard Bolton (London: MIT Press, 1989), 342-88, and Donna Haraway, *Simians, Cyborgs, and Women: The Reinvention of Nature* (London: Free Association Books, 1991), all of which focus on the relationship between institutions, institutional technologies, and visual images, wherein the latter are tied to and are “articulations of institutional power”. See Rose, *Visual Methodologies*, 176.

practices amidst zones of conflict often occurs within a distinct set of power relations and according to strict regulation. In complying with the strictures set forth by military – and, by extension, state – forces, images produced in such ways are not only part of an interpretative force, but are a force in and of themselves. In other words, they are not neutral artifacts awaiting narrative structure to give meaning beyond the immediate viscera or sensorial data they offer. Rather, they “actively, even forcibly”,²¹⁵ build and disseminate an interpretation that is “compelled and enacted by the visual frame”.²¹⁶

This is evident in the two Iraq wars, where the state framed – literally and figuratively – the “cognitive apprehension” of these conflicts by allowing and disallowing the media certain visual perspectives. Despite the intense media coverage of the wars, and the proliferation of images which gave the impression of breathlessly conveying a minute-by-minute account of these conflicts, “seeing” was mediated in advance by state forces that decided what could and could not be included in fields of vision, and, ultimately, what and who could and could not be apprehended.²¹⁷ Butler points to the state-mediated “seeing” that occurred in Guantánamo as well, where images were framed with a forcible interpretation in mind - to “make known that a certain vanquishing had taken place, the reversal of national humiliation, [and as] a sign of successful vindication”.²¹⁸

²¹⁵ Butler, “Photography, War, Outrage”, 823.

²¹⁶ Butler, “Photography, War, Outrage”, 827.

²¹⁷ Butler, “Photography, War, Outrage”, 823.

²¹⁸ Butler, *Precarious Life*, 77-78. See also Stephen Holmes and Joseph Margulies, who draw attention to the theatrical aspects of the first photographs which emerged from the camp, where photographs of restrained and incapacitated detainees were used as props through which the United States could demonstrate its power and might. Stephen Holmes, *The Matador's Cape: America's Reckless Response to Terror* (New York: Cambridge University Press, 2007); Joseph Margulies, *Guantánamo and the Abuse of Presidential Power* (New York: Simon & Schuster, 2006).

In fact, photographs, imagery, and visual evidence are vital sources – that deeper bite spoken of by Sontag – in tracing the trajectories, rationales, and expressions of state violence, as it is expressed through and upon the bodies of Guantánamo’s detainees. The reliance on visual practices to build and circulate meanings can be seen in the direct aftermath of 9/11, where a key tactic of the American state in validating their “war on terror” campaign was to make visible and to embody what had until then been an invisible, or at least not easily identifiable, enemy. That these images were *meant* to be seen, and to be subjected to a certain amount of scrutiny, is a fact betrayed not simply by the fact of their existence, but also in the ways in which they centered around the subordination of enemy bodies and the creation of enemy subjects, which in turn worked to legitimate war efforts, detention practices, and the use of extra-legal measures.

Guantánamo, then, can be understood as a *visual event*, wherein the logics and aims of the “war on terror” coalesced with and were embedded within the images produced and circulated in its wake. Indeed, the forms of knowledge engendered by the co-operation of juridical and political forces, underscored by a framing of the war on terror as a war of civilization versus barbarism, are clearly represented in and sustained in the first images which emerged from the camp. Images of shackled, jumpsuit-clad, “alien” looking detainees were taken and circulated widely, proliferating in media spaces in both print and online forms, to the extent that the orange jumpsuit worn by those prisoners has taken on both an iconic and representational status, as I demonstrate further in Chapter 6. Whereas it once bore a visual and conceptual relationship to carceral subjects in general, the vivid orange jumpsuit has taken on a visual specificity that conjures Guantánamo’s detainees and the camp in general. In this sense, these images not

only worked to set the stage for how the world should see and think about the “war on terror”, but also about those who were (and continue to be) its targets. In the process, “visuals [were] used as ‘pegs’, not to [a] particular event but to larger stories that reflect[ed] and reinforce[d]” narratives of the war and of detainees.²¹⁹

Within accounts of visibility, especially as it works in tandem with power/authority, the relationship between the visible and the *invisible* is also important, as “imperial state[s]”²²⁰ often actively seek to both visualize and to render their violence as invisible. Given this, part of the task of critically examining the relationship of violence and to visibility, then, is to work to uncover what is hidden amidst visibility, and to pay attention to the ways in which the invisible can be as powerful as the visible, if not more so. While visual practices produced enemy “bodies that could be subordinated to ... ‘super-vision’ and put on display for retaliation”,²²¹ they simultaneously occurred within a sanctioned context that work to both make visible and invisible much of the violence of the American state. In other words, while images made “prisoners legible as enemies”,²²² they were also imbued with the sanctioning power of the American military. While the violence of detention, particularly indefinite detention, may be read in and through images of bowed and shackled detainees, the presence of military personnel works to erase at least part of the force of this violence, offering it as one

²¹⁹Kari Anden-Papadopoulos, “The Abu Ghraib torture photographs: news frames, visual culture, and the power of images”, *Journalism* 9, no. 1 (2008): 9.

²²⁰See Anne McClintock, “Paranoid Empire: Specters from Guantánamo and Abu Ghraib”, *Small Axe*, volume 13, no. 1, 2009: 50-74.

²²¹McClintock, “Paranoid Empire”, 58.

²²²McClintock, “Paranoid Empire”, 59.

that is still contained, occurring within certain bounds, and subject to a certain level of scrutiny. Also, while certain images allowed for the memorialization of the “enemy’s” defeat, those images voided of detainees – for instance, those which show Guantánamo as a place of both mundane detention and where keeping detainees alive, or at least disallowing their deaths, is a paramount concern – may also be analyzed as a tactic of the state to both hide its violence(s) and to actively engender certain other forms of violence that shape the apprehension of detainees. In this sense, “absences can be as productive as explicit naming; invisibility can have just as powerful effects as visibility.”²²³

3.2 Images, Race, and Empire

“Recognition [...] is a change from ignorance to knowledge, bringing characters into either a close bond, or enmity, with one another”.²²⁴

Aristotle, *Poetics*.

Processes of racialization and the use of the photographic image are intimately connected. From the invention of photographic technology, images were used as a method for racial categorization and classification, and worked to inscribe deviance and otherness onto “dark” bodies.²²⁵ It is precisely, according to Mariana Ortega, the “indexicality” of photography and its relation to the body, or its ability to “point to an existing thing in the material world, in the body”²²⁶ that grants images this hierarchizing force. Similarly, Deborah Poole describes the

²²³ Rose, *Visual Methodologies*, 165.

²²⁴ Aristotle, *Poetics*, trans. Stephen Halliwell (London: Duckworth, 1987), chapter XI, 43.

²²⁵ Mariana Ortega, “Photographic Representation of Racialized Bodies: Afro-Mexicans, the Visible, and the Invisible”, *Critical Philosophy of Race* 1, no.2 (2013): 164. See also Leigh Raiford, *Imprisoned in a Luminous Glare: Photography and the African American Freedom Struggle* (Durham: University of North Carolina Press, 2013).

²²⁶ Ortega., “Photographic Representation of Racialized Bodies”, 164.

circulation of photographs of non-European peoples in 19th century Europe, where the intense fascination these images were met with was due in part to “the ways in which their material nature as image-objects lent support to an emerging idea of race as a material, historical and biological fact”.²²⁷ In this context as well, visibility does not just work to capture and reiterate what is physically visible. Visibility and invisibility work together and separately to shape images of racialized subjects and bodies, as Ortega suggests: “the visible by way of bodily signs and the invisible through that which exceeds the photograph, the beliefs, attitudes, and structural components that tacitly inform interpretations of images”.²²⁸ The first photographs of Guantánamo Bay detainees once again serve as instructive moments in this regard, where images worked to reiterate detainees as specific kinds of racialized subject-bodies, and where as previously noted, the invisible colonial history of the camp framed the apprehension of the detainees as racialized, alien, criminal bodies, marked within an imperial system²²⁹, as clearly as did more visible markers of incapacitation.²³⁰

In *White Skin, Black Masks*, Frantz Fanon describes a phenomenology of the racial experience of black subjects. Fanon argues that a central aspect of colonial racism is the drive towards particularization, and the divesting of racialized subjects of their ability to be universal.²³¹ The fixing of a black subject to a

²²⁷ Deborah Poole, *Vision, Race, and Modernity: A Visual Economy of the Andean Image World* (Princeton: NY, Princeton University Press, 1997), 15.

²²⁸ Ortega, “Photographic Representation of Racialized Bodies”, 164.

²²⁹ See Amy Kaplan, “Where is Guantánamo”, 840.

²³⁰ Kaplan, “Where is Guantánamo”, 840.

²³¹ Frantz Fanon, *Black Skin, White Masks* (New York: Grove Press, 2008), 135.

particularity “overdetermines [them] from without”²³², and in the process, the relationship between colonizer and colonized becomes normalized. Negative particularity, as also a kind of objectification, and as the denial of universality was, for Fanon, at the root of colonial racism, while the fixing of “essential racial particularity [was] in itself worse than the attributing of negative characteristics to this racial particularity”.²³³

Thus, the body of the black man, his “bodily schema”, and his own consciousness of his body, are not only mediated, but are also experienced in the negative, and as borne of a “a third-person consciousness”.²³⁴ This body, “surrounded by an atmosphere of certain uncertainty”²³⁵ and “woven out of a thousand details, anecdotes, [and] stories”, even moves in a manner that is “not out of habit, but out of implicit knowledge”. Fanon describes “a slow composition of my *self* as a body in the middle of a spatial and temporal world. [This schema] does not impose itself on me; it is, rather, a definitive structuring of the self and of the world, definitive because it creates a real dialectic between my body and the world”.²³⁶ When (fearfully) hailed as a (threatening) black body - “Look, a Negro!” - the corporeal schema collapses and is replaced by an epidermal schema within which racialized subjects come to know themselves “in a triple person”. Fanon states, “I existed triply: I occupied space. I moved toward the other, hostile but not opaque, transparent, not there, disappeared [while] I

²³² Fanon, *Black Skin, White Masks*, 116.

²³³ Ghassan Hage, “The Affective Politics of Racial Mis-interpellation”, *Theory, Culture & Society*, Vol 27, Issue 7-8: 115.

²³⁴ Fanon, *Black Skin, White Masks*, 110.

²³⁵ Fanon, *Black Skin, White Masks*, 110-111.

²³⁶ Fanon, *Black Skin, White Masks*, 111.

was responsible [at] the same time for my body, for my race...".²³⁷ Drawing a comparison between the experiences of Jewish and black subjects, Fanon writes:

The Jew is attacked in his religion, identity, in his history, in his race, in his relation with his ancestors and with his posterity; when one sterilizes a Jew, one cuts off the source; every time that a Jew is persecuted, it is the whole race that is persecuted in his person. But it is in his corporeality that the Negro is attacked. It is as an actual being that he is a threat.²³⁸

The particular relevance of Fanon's work to further understanding the manner in which Guantánamo detainees are encountered (both literally and through images) as racialized subjects lies in his emphasis on the interrelationship between the material and phantasmatical aspects of race and bodies. Also, while the above-quoted passage should not be taken to suggest that there is total synergy between the experiences of Black, Jewish, and Muslim subjects, this sort of reading grants an opportunity for analysis of the latter as one that straddles the divide (however slight it may be) between those targeted for their relation to a particular religio-cultural and racialized group, and those who endure violence as a result of an a-priori, particularized, "being". Importantly, Fanon's work also allows for insight into the relevant contexts within which detainees are constructed and known; the objectification and racialization of Fanon's black subject occurs within a context of white supremacy, and is reproduced through socio-cultural and political institutions, wherein racialized hierarchies are materially and discursively cultivated and sustained. Indeed, as Puar and Rai note, "war on terror" techniques involve "the legitimation and expansion of

²³⁷ Fanon, *Black Skin, White Masks*, 112.

²³⁸ Fanon, *Black Skin, White Masks*, 162-63

techniques of racial profiling that were in fact perfected on black bodies”.²³⁹

There is then, a decided overlap between the rationales of such technologies, a significance which is heightened when read against Fanon’s description of the phenomenology of the Black racial experience.

The significance visual representations take on in regard to the construction and framing of racialized groups is therefore also an especially important consideration when we consider the role of the visual in colonial and imperial projects. The ways in which photography and image-making was used as a tool of domination in colonial projects throughout the 19th and 20th centuries have been remarked upon by a number of scholars.²⁴⁰ Arguably the most influential of these works is Edward Said’s *Orientalism*. Said offers an intensive critique of the ways in which Western-rooted knowledge produced a set of knowledges about “the Orient” and its peoples that allowed for both their construction and management. *Orientalism* was a term that encompassed the systematized mode of knowledge that created guidelines around the distillation of the idea of the Orient,²⁴¹ the boundaries of which also worked to create a “set of constraints upon and limitations of thought” pertaining to the Arab/Muslim.²⁴²

²³⁹ Jasbir Puar and Amit Rai, “Monster, Terrorist, Fag: The War on Terrorism and the Production of Docile Patriots,” *Social Text* 20, no. 3 (2002): 139.

²⁴⁰ See, for example, Shakuntala Rao, who details the role of photographic archives of India, where the exoticized, fetishized representations contained within these images dovetailed with the imperial objectives of British colonial powers. Shakuntala Rao, “Imperial imaginary: Photography and the invention of the British raj in India” in *Visual Communication Quarterly* 7, no. 4 (2000): 10-16. See also Sophia Rose Arjana, *Muslims in the Western Imagination* (New York: Oxford University Press, 2015), Mohja Kahf, *Western Representations of the Muslim Woman: From Termagant to Odalisque* (Austin: University of Texas Press, 1999), and Eleanor Hight and Gary Sampson, eds. *Colonialist Photography: Imag(in)ing Race and Place* (New York: Routledge, 2002).

²⁴¹ Edward Said, *Orientalism* (Middlesex: Penguin Press, 1978), 6. See also Said, *Culture and Imperialism* (New York: Alfred A. Knopf, 1993), and *Covering Islam: How the Media and the Experts Determine How We See the Rest of the World* (New York: Random House, 1997).

²⁴² Said, *Orientalism*, 4.

As a method of discourse, Orientalism therefore produced ways of knowing and seeing Eastern subjects in monolithic ways: politically, culturally, and imaginatively.²⁴³ It also offered a political vision largely built upon representations of extreme difference between the familiar (Europe, West, “us”) and the strange (the Orient, the East, “them”).²⁴⁴ Creating and displaying knowledge in such ways implied a capacity to do so; in other words, forming “knowledge mean[t] rising above immediacy, beyond self, into the foreign and distant”.²⁴⁵ Knowledge thus was and remains a form of domination, and operated as a tool by which to create subjects which remain ontologically stable in the mind of the knower. While this constructive power molded and projected meaning onto subjects who were believed to embody difference and foreignness²⁴⁶, these discursive structures also had material effects, and were integral to shaping the external realities and subjectivities of colonial subjects.

Drawing on Said’s seminal theory, Sophia Rose Arjana notes that while Orientalism can be used to refer to “a colonial language, a system of classification, an artistic movement, an academic discipline, and an attitude about the world”, much of its force can be found in the manner in which Orientalism’s various manifestations worked to *fix* a “Western imaginaire about Islam”.²⁴⁷ These imaginaries are not just vestiges of a colonial past – they continue to sustain forms

²⁴³ Said, *Orientalism*, 40.

²⁴⁴ Said, *Orientalism*, 43.

²⁴⁵ Said, *Orientalism*, 32.

²⁴⁶ Said, *Orientalism*, 44. See also Talal Asad, who problematizes *how* Western conceptualizations of religion, specifically Islam, come about, and how they come to be projected onto Muslim subjects. Asad argues that Western knowledge and discourse created concepts of ‘religion’ and Islam within the context of Western mores. Talal Asad, *Genealogies of Religion: Disciplines and Reasons of Power in Christianity and Islam*, (Baltimore: The John Hopkins University Press, 1993), and Asad, “The Idea of an Anthropology of Islam”, *Qui Parle* 12, no. 2 (2009): 1-30.

²⁴⁷ Arjana, *Muslims in the Western Imagination*, 8.

of seeing, both literal and figurative, that contribute to what Arjana calls the “ideological alienations of Muslims from normativity”.²⁴⁸ They are also, as Maryam Khalid argues, deeply gendered. She notes that “the image of the ‘veiled oppressed Muslim woman’ is [a] pervasive and salient [part of] war on terror discourse”,²⁴⁹ and that recent public and legal scrutiny of Muslim veiling practices in Western states play a central role in the construction of both Western and “othered” identities. Moreover, the issue of veiling has itself figured greatly into the justificatory language used in the “war on terror”. Khalid also describes how immediately following 9/11, there was a proliferation of images of burqa-clad women, where these images served as visual pegs of the moral correctness of the “war on terror”.²⁵⁰

While such an analysis seems to leave little room for considerations of agency or resistance, the durability of Orientalism is in fact a central part of its structure. The enduring nature of the Orientalist system, however, is less an indication of any underlying truths, but is rather an indication of the creative, meaning-making, and productive capacities of this system, which allowed it to take on the power and function of truth. As Said argues, under this system, “objects are what they are because they are what they are, for once, for all time, for ontological reasons that no empirical material can dislodge or alter.”²⁵¹

The manner in which imaginaries of the Orient and its populations “combine over time to produce an archive in which things come to be seen as

²⁴⁸ Arjana, *Muslims in the Western Imagination*, 9-10.

²⁴⁹ Maryam Khalid, “Gender, orientalism and representation of the ‘Other’ in the War on Terror”, *Global Change, Peace & Security* 23, no. 1 (2011): 21.

²⁵⁰ Khalid, “Gender, orientalism and representation of the ‘Other’ in the War on Terror”, 15-16.

²⁵¹ Said, *Orientalism*, 70.

neither completely novel nor thoroughly familiar”²⁵² means also that Orientalism has a certain, as Derek Gregory calls it, “protean power”.²⁵³ This power, which creates categories through which one is able to “see new things, things seen for the first time, as versions of a previously known thing”²⁵⁴, is, for Gregory, of central importance. In other words, the “citationary structure that is authorized by these accretions”²⁵⁵ affords Orientalism performative capacities, wherein it works to “produce the effect it names”.²⁵⁶ The production of this effect – the Orient – is achieved through first, rendering it as a strange, bizarre, ‘even monstrous space’, and secondly, by constructing it as a space demanding domestication and normalization.²⁵⁷ In rendering these spaces as such, and in making them accessible to colonial and military ventures, visibility functioned as an integral part of these projects. In this sense, Orientalism has produced particular ways of seeing the “Orient” and its peoples – spatially, militarily, and as being fit for specific forms of governance – that were integral to the manner in which colonial expansion unfolded (and continues to unfold); this can still be seen in modern warfare technologies that rely on “heightened visual-judicial scrutiny”,²⁵⁸ such as drone strikes. There is, then, a continued close relationship between state violence and visual fields, or what Gregory calls “scopic regimes”. These scopic regimes, or the

²⁵² Derek Gregory, “Palestine and the War on Terror”, *Comparative Studies of South Asia, Africa and the Middle East* 24, no. 1 (2004): 183.

²⁵³ Gregory, “Palestine and the War on Terror”, 183.

²⁵⁴ Said, *Orientalism*, 59.

²⁵⁵ Gregory, “Palestine and the War on Terror”, 183.

²⁵⁶ Derek Gregory, “Palestine and the War on Terror”, 183.

²⁵⁷ Derek Gregory, “Dis/Ordering the Orient: Scopic Regimes and Modern War”, in *Orientalism and War*, eds Tarak Barkawi and Keith Stanski (New York: Columbia University Press, 2012), 151-152.

²⁵⁸ Gregory, “Dis/Ordering the Orient: Scopic Regimes and Modern War”, 191.

“variable fields that structure what is seen”, have historically worked in war times to mediate and develop both conceptions of the self and the “other”. Modern war projects are “inflected by the visual codes of [O]rientalism”, while “changing scopic regimes ... mediate ... the triangulations of modernity, orientalism and war that frame [a] still profoundly colonial present.”²⁵⁹ The visual archive of state violence in Guantanamo suggests that the detention camp’s images can be thought of as a scopic system within a broader scopic regime. In other words, this archive points to the specificities that mark the camp’s visual apparatus of state violence as one that is distinctly organized.

Arjana also traces the use of Orientalist images to modern-day state violence, arguing that images produced in the “war on terror” have worked to sustain and create archives of Muslim “monsters”.²⁶⁰ For example, the documentation of violence at Abu Ghraib prison in Iraq, where American soldiers photographed themselves abusing and torturing Iraqi prisoners, is a continuation of a history of visual encounters between West and East, beginning with the “spectacle of foreign bodies formulated in the Middle Ages and the Renaissance, continu[ing] to be seen during the colonial age”, and resulting in the “mixed up milieu of sexual desire and repulsion” which characterized the images of Abu Ghraib.²⁶¹ While the overt violence contained in the Abu Ghraib photos may, on the one hand, seem to make them distinct from the Guantánamo’s images, they

²⁵⁹ Gregory, “Dis/Ordering the Orient: Scopic Regimes and Modern War”, 153.

²⁶⁰ Arjana, *Muslims in the Western Imagination*.

²⁶¹ Arjana, *Muslims in the Western Imagination*, 182. See also Ziaddin Sardar, who argues that Orientalism’s privileging of vision is apparent when considering the central role images played (and continue to play) in shaping the ‘West’s’ relationship to the Orient. He connects modern-day ways in which Arabs and Muslims are figured and pictured as anti-Western “others”, to hundreds of years of Orientalist thought that resulted in “deeply ingrained reflexes and ideas”. Ziaddin Sardar, *Orientalism*, (Philadelphia, PA: Open University Press, 1999), 54-5.

both emerge within a shared context and are inflected by the visual codes of state violence in the “war on terror”; these codes, and the forms of violence from which they emerge and which they engender, rely upon specific forms of subjugation and denigration, as well as the visual archiving of its practices.²⁶² It is, then, not just the visual evidence of violence that binds these sets of images together. It is also the encoding practices and visualizing impulses of state violence that mean that taken together, these sets of images are not discrete sets at all, but are rather inflection points in the visual archiving of violated male Muslim bodies.

In capturing them as bodies carrying within them the intent and capacity for specific expressions of violence, detainees were both signified as certain kinds of subjects and bodies and as uniquely belonging to and fit for a space of both expulsion and indefinite detention. While the American state relied on what has since been determined to be largely inaccurate and dodgy information in order to capture and detain Muslim men²⁶³, they also depended on perceptions of certain bodies as inherently culpable, and as containing the capacity for specific kinds of violence; these perceptions facilitated the slippage between thinking and *knowing*, and provided the justification for measures used to capture and contain these “types of creatures”. They also relied on an understanding of the specific forms of violence that are thought to adhere to, and reside in, the bodies of Muslims. These forms go beyond the kind of violence that “merely” murders and

²⁶²As Human Rights Watch notes, military command in Iraq was charged with “Gitmo-izing” interrogation practices in Iraq. See Human Rights Watch, “The Road to Abu Ghraib”, June 8, 2004, <https://www.hrw.org/report/2004/06/08/road-abu-ghraib>, accessed May 4, 2019.

²⁶³See Mark Denbeaux, Joshua Denbeaux, David Gratz, and John Gregorek, “Report on Guantánamo Detainees through Analysis of Department of Defense Data,” *Seton Hall Law Review* 41, no. 4 (2011): 1-28.

maims; rather, they are geared towards the ideological and material destruction of a world.

President Bush, immediately following the attacks in New York, described the situation as such: “We’ve seen the enemy [and] they recognize no barrier of morality. They have no conscience [and kill] not merely to end lives, but to disrupt and end a way of life.”²⁶⁴ In pursuing this degree of violence, they seek “to remake the world in their own brutal images.”²⁶⁵ Discourses and practices that construct Muslims as ideologically driven by a desire to destroy the world and remake it anew render them as particularly and radically imperiling to life itself, to the very “biopolitical and biocultural facets of life.”²⁶⁶ Framed as such, detainees were thus made exceptional as bodies engaged “are in permanent and perpetual war.”²⁶⁷ As a reflection of this prolonged state, a perpetuity that has been met in response by a never-ending “war on terror”, it is no mistake that these detainees are apprehended as being fit for a space of indefinite detention *before and in spite of* any evidence of their guilt or innocence. These perceptions facilitated and concretized the slippage from collective suspicion (Muslims perpetrated 9/11) to specific guilt (*these* specific Muslims perpetrated 9/11), and continue to hold sway, as the majority of detainees subsist in Guantánamo without ever being charged with crime.

²⁶⁴ “Bush Signs Anti-Terrorism Legislation”, October 25, 2001, http://www.washingtonpost.com/wp-srv/nation/specials/attacked/transcripts/bushtext_102601.html, accessed April 11, 2017.

²⁶⁵ Chad Shomura, “These are Bad People” – Enemy Combatants and the Homopolitics of the “War on Terror”, *Theory and Event* 13, no. 1 (2010): 10.

²⁶⁶ Shomura, “These are Bad People”, 11.

²⁶⁷ Shomura, “These are Bad People”, 18.

Conclusion

In this chapter, I have sought to establish a clear connection between visual practices, state power and violence, and racialized and othered bodies. This chapter demonstrates that this relationship is not always linear, and it may be subject to the starts, fits, and flows of power and authority, as well as to moments of resistance; however, it also proves to be especially stubborn when it involves particular kinds of subjects and bodies. Images of Guantánamo Bay and its detainees are connected and distinct instantiations of the complex relationship between practices of visibility, power, violence, and the making and unmaking of certain kinds of subjects and bodies. Practices of visibility are fundamental to the functioning of these relations, as they work not only to shape *how*, *what*, and *who* we see, but to also stabilize ontological and material categories.

In the next chapter, I focus on how law, violence, and visibility work in tandem to further particularize the male Muslim body, through a critical visual analysis of the visual economies that circulate in relation to the (il)legal life of the camp; these images also share a relation to the extent to which Guantánamo's detainees are understood as legal subjects. Detainees, as they circulate not only in law and legal decisions, but also in the visual economies that precede and follow in the wake of these legal decisions, move from rightless objects to semi-legal subjects with a limited measure of rights. I argue that in order to further trace the rationales of this shift, we must look to the images of Guantánamo Bay that were central to the establishment and functioning of this space as a particular kind of place containing particular kinds of subjects. To that end, images are analyzed both in relation to the power relations which construct visual fields, mediate legibility, and function as systems of classification, as with the understanding

that photographs represent, reiterate, and circulate alongside and in response to shifting notions of legality and rights. In other words, I argue that fundamental to the functioning of legal apparatuses is a reliance on practices of visibility, which work to not only shape *what* is seen and *how*, but to also legitimate legal categories, findings of (ill)legality, and processes of legal inclusion and exclusion.

Chapter 4: Law, Visual Practices, and the Making of Detainees.

In every act of looking there is an expectation of meaning.²⁶⁸

John Berger, "Appearances", 1982

Guantánamo has become a symbol around the world for an America that flouts the rule of law.²⁶⁹

U.S. President Barack Obama, 2013

Introduction

War photography raises a question that is of pressing concern. Put simply, it asks: "just what is going on here"?²⁷⁰ It is a question that seeks clarity, and it is one that is born from the nature of war, in all of its confusion, violence, and catastrophe. It also suggests a consideration of how images showing the most brute of facts also contain histories, meanings, and effects that pre-figure and extend beyond the frame. In other words, asking "just what is going on here" allows for a re-calculation of such images in order to understand more precisely what is contained both *within* and *outside* of their frames, wherein the latter works just as diligently to shape meaning and comprehension as does the former. Asking this question therefore also demands that we understand images beyond what is offered materially, that we actively look towards context, and that we consider the nature of an image's production as well as its agentic role as "a subject position through which we speak and think" about certain people, places,

²⁶⁸ John Berger, "Appearances", in *Another Way of Telling*, eds. John Berger and Jean Mohr (New York: Pantheon Books, 1982), 117.

²⁶⁹ President Barack Obama's speech at National Defense University, May 23, 2013, accessed January 27, 2016, <https://www.theguardian.com/world/2013/may/23/obama-drones-Guantánamo-speech-text>.

²⁷⁰ Teju Cole, "Against Neutrality", *The New York Times Magazine*, January 17, 2016, accessed January 3, 2019, <http://www.nytimes.com/2016/01/17/magazine/against-neutrality.html>.

and events.²⁷¹ *Where does this image come from? What does it show? What does it obscure? What does it do?* Just what is going on here?

Thus far, this dissertation has worked to establish an analytical lens and framework through which we may answer these, and other questions. It has done so by bringing together diverse fields of inquiry and theoretical approaches – from law and state violence in the “war on terror”, to race and visual practices, to thinking anew the role of religion in the material and socio-political entanglements that construct and traverse the male Muslim body. In this first of three analytical chapters, I use these lenses to further construct and engage directly with the visual archive of Guantánamo Bay and its detainees; doing so allows for an examination of stark instances of “how the visual becomes a way of arriving at particular types and layers of knowledge or ways of knowing”²⁷², as well as the close relationship between the production of (il)legality, images, and the making and un-making of detainees.

In this analysis, I rely on a series of images that span the legal and material life of the detention camp. These images, produced by military photographs and circulating through news media sources (and beyond), capture both the material evidence of detention (barbed wire fences, incapacitated and shackled bodies, military presence). Through what this content conjures, the viewer is also drawn in intimate proximity to the camp. At the same time, they are distancing images, taken from specific vantage points which emphasize the abandonment of the detainees to the logics of both the camp and the (il)legality that sustains it.

²⁷¹ Alison Young, “From Object to Encounter: Aesthetic Politics and Visual Criminology”, *Theoretical Criminology* 18, no. 2 (May 2014): 160.

²⁷² Sarah Pink, “Advances in Visual Methodology: An Introduction”, in *Advances in Visual Methodology*, ed. by Sarah Pink (California: Sage Publications, 2012): 5

Through these images, I show that legal and visual shifts around Guantánamo are not unrelated; rather, they occur alongside, in relation to, and in response to the other. This analysis departs from others that emphasize a more teleological approach to analyzing the shift in visual practices at Guantánamo, where the move from displaying intensely subjugating forms of detention to depictions of more mundane and sanitized imprisonment is understood as part of rationalized state objectives to show a more evolved, or sanitized, approach to detention in the “war on terror”.²⁷³ I contend that while such visual practices work to shape *what* is seen and *how*, they suggest something more than a neat trajectory of state-crafted aims. Visual practices at Guantánamo also legitimate legal categories, findings of (il)legality, and processes of legal inclusion and exclusion, while simultaneously shaping the limits and scope of what counts as recognizable within the visual frame and within law.²⁷⁴ Legal processes and the visual practices employed by the state thus share a reverberating and revelatory kinship, wherein the legibility and authority of each is underwritten by the functioning of the other.

This chapter is divided into three sections. These sections, which are also loosely chronological, identify and describe distinct periods of law and visual practices in Guantanamo: pre, during, and post legal intervention, wherein legal intervention is largely defined by the decisions of Superior Courts such as the Supreme Court of the United States (SCOTUS) and the District Courts of

²⁷³ See, for example, Elspeth Van Veeran, “Captured by the camera's eye: Guantánamo and the shifting frame of the Global War on Terror”, *Review of International Studies* 37, no. 4 (2011): 1721-1749.

²⁷⁴ See Nicholas Mirzoeff, who defines the complex that makes up visibility as being made up of classification, separation, and aesthetization. Nicholas Mirzoeff, “The Right to Look”, *Critical Inquiry* 37, no. 3 (2011): 473-496.

Washington D.C. This arrangement is neither to suggest that images and law function so neatly or discretely, nor is it to suggest that categories such as “pre” and “post” law adequately capture the goings-on at Guantánamo. However, in each of these sections, I draw relations between these legal periods and the visual practices employed by the U.S. state. I argue that what is shared in these relations is the ways in which legal and visual regimes work in tandem to discursively and materially (re)produce detainee bodies as diminished legal (and non-legal) subjects. Framing my analysis of these image is the notion that what and who is “seen”, or “not seen” by the law involves both being “erased and obscured”, and “appropriated and called upon”, in order “make sense of, make, and remake” legal categorizations.²⁷⁵

At the center of this relationship between the visual and the legal, between what is shown and what is hidden or obscured, and between the aims of state violence and the limits of law’s response, is the detainee himself. The “profound and persistent unrecognizability”²⁷⁶ of the detainee as a full legal subject is rooted in the particular forms of (un)recognizability that attach to this body, and these both emerge from and echo within visual practices and legal work. In the context of Guantánamo Bay, the ever-tightening relation of law to visibility and visibility to law is thus underwritten by a particular understanding of the detainee body. This body, as male, as Muslim, and as both the object and subject of state visual practices and law, pre-figures and pre-shapes the state-mandated frame, which

²⁷⁵ Joanna Tidy, “Visual Regimes and the Politics of War Experience: Rewriting War ‘from above’ in WikiLeaks’ ‘Collateral Murder’”, *Review of International Studies* 43, no. 1 (2017): 95.

²⁷⁶ Johns, *Non-Legality in International Law*, 62.

works to further determine the forms of knowledge (legal and otherwise) that attach to this figure and that shape its standing before law.

I read state visual practices which both contain detainee bodies and those which erase them against legal decisions. In doing so, I seek to unveil the ephemeral and sensorial trajectories that shape law's meaning-making capacities, and to also consider how the limits and reach of legal boundaries are drawn and re-drawn against the contours of material bodies. That is not to say that the matter is straightforward: the relationship between images, bodies, and law produces cross-cutting and variant meanings. Images produced by the state resonate with the echoes of legal uncertainty and unrecognizability (what kinds of legal subjects can detainees be? Are they recognizably legal subjects?) as well as with certainty and recognizability (detainees can be subjected to certain forms of legal categorization and forms of violence, because of *who and what they are*).

4.1 Visual (Re)iterations of (il)legal Subjects: Images pre-Legal Intervention

In her work on the interplay between bodies, subjectivities, and images, Rebecca Coleman rejects an analysis of the relationship between bodies and images that separates the two into binary oppositions of subject and object; when it comes to the female body, for example, she argues that it is “often both subject ... and object ... of images and do[es] not exist as an entity that is secure and bounded from images.”²⁷⁷ In other words, certain kinds of bodies can be “experienced *through* images [where] these experiences limit or extend the

²⁷⁷Rebecca Coleman, “The Becoming of Bodies: Girls, media effects and body-image”, *Feminist Media Studies* 8, no. 2 (2008): 164.

becoming of bodies.”²⁷⁸ Such an understanding is “grounded not in oppositions but in process, relationality, and transformation.”²⁷⁹ It is to “processes of movement, variation, and multiplicity, [where] becomings are transformations – not of forms transforming into one another or different forms but of constantly processual, constantly transforming relations”,²⁸⁰ that we should then look, for an understanding of how specific conceptions of bodies result in a visual experience of them that is shaped in the interstices of these processes.

These relations limit or extend knowledges, understandings, and experiences of bodies as produced *through* and *in* images. As I have shown, when it comes to Guantánamo’s prisoners, these relations are deeply embedded in pre-existing frameworks that marked the male Muslim body as a specific kind of threat, a liminal subject, and as necessitating the forms of violence and containment seen in the detention camp. In this sense, the relationality or processes between body and subject and image takes on specific trajectories, and the coming into being of these bodies as legal (or semi-legal) subjects is mediated in very particular ways.

I would like to focus in this section on one photograph, as both a mediated and mediating image through and in which detainees were produced as (il)legal bodies.

²⁷⁸ Coleman, 165.

²⁷⁹ Coleman, 163.

²⁸⁰ Coleman, 170.



Figure 4.1 “A Nation Challenged: Detainees; For America's Captives, Home Is A Camp In Cuba, With Goggles And A Koran.” New York Times, January 20, 2002.
Photo Credit: Shane T. McCoy / United States Navy

The image in Figure 4.1 shows seventeen orange-clad figures huddled on a graveled pathway that is bracketed by an elaborate chain link and barbed wire fence that tunnels the length of the image and seems to extend beyond its frame. In the far background, the landscape appears as muted greenery. In the foreground, the structures of an army base are clear: a military presence in the form of seven officers, a network of steel and wire, and a watchtower covered in a barely discernable American flag that juts up amongst squat buildings. The perspective of the image is largely filled by the fence that surrounds the prisoners and closes them in on both sides, and that edges along the perimeter of the image. At the angle from which the photograph was taken, a jutting fence wire seems almost to touch one prisoner, while seeming to loom larger than another. The detainees are lined up, kneeling, in two parallel, back-to-back, rows. They face away from each other, heads down, angled towards the fence that contains them on all sides. At the far background of the image, one prisoner

breaks the segmentation of the lines and is kneeled at the feet of a military officer who looms over him. The military officer does not look at the prisoner. His gaze is to the row of bodies on his left. A few steps ahead, towards the foreground of the image, is another officer. He appears mid-stride, walking between the two rows, and seems to be checking papers, while on one side of the fence, four military officers stand in observation. Bent at the knees, in supplicating, penitent positions, some of the detainees wear hats in the same lurid orange as their jumpsuits, while others show what look to be newly-shaved heads. Their hands are clasped in front of them, bound together, covered with unwieldy black mittens. Their faces are covered with white medical masks, while it is just possible to discern the shape of goggles covering the eyes of some. In the foreground of the image, to the left, the pants of the prisoner closest to the lens of camera appear to slip down his body, exposing a sliver of bare skin. It is a particularly vulnerable moment in an image of extreme vulnerability, as detainees are rendered as totally abject and as utterly subject to state force.

This image, and others similar to it, were produced by the sole photographer initially allowed access to the detention camp, a naval officer by the name of Shane T. McCoy. Assigned to an elite unit named “Combat Camera”, McCoy was charged with taking pictures for use by the Department of Defense, and was given instructions to “take pictures. Choose some. Write captions. Send them to Washington”.²⁸¹ This was a move apart from normal military practice; not only do military policy typically prohibit taking photographs of wartime

²⁸¹ “Photos echo years later”, Carol Rosenberg, *Miami Herald*, January 10, 2008, <https://www.miamiherald.com/news/nation/world/world/americas/Guantánamo/article1928720.html>, accessed December 09, 2018.

detention, but it was also highly irregular for the Pentagon to approve of such images to be disseminated for public consumption, as they became when they appeared on television and in the pages of the *New York Times* shortly afterwards.²⁸²

In some ways, this decision, which Donald Rumsfeld would later call “probably unfortunate”,²⁸³ presented a problem for the state. The images quickly became the rallying point for those highly critical of the camp and the treatment of its prisoners, a point made evident by the continued use of these particular photographs, or of similar images that repeat their content (the orange jumpsuit, shackled and bowed bodies, excessively punitive imprisonment), by human rights organizations, legal scholars, and journalists in their critiques of Guantánamo. As Martha Lincoln notes, they “play[] in the mind’s eye like a silent film [and] appear on websites around the world as an unofficial symbol of the war on terror.” They were “impersonated by protestors” and “stenciled onto pavements, silk-screened onto t-shirts, and smuggled in replica into Disneyland” by artists. In these circulations, detainees become “metonymic stand-in[s] for the American penal colony at Guantanamo Bay.”²⁸⁴ Lincoln is here referring to the work of the artist Banksy, who in 2006 placed a life-sized inflatable doll replica of a detainee in Disneyland in 2006. This doll came “complete with an orange jumpsuit, black hood, and handcuffs.”²⁸⁵ (See Figure 4.2) Banksy graffiti

²⁸²See Van Veeran, “Captured by the camera’s eye”.

²⁸³David Rose, *Guantánamo: America’s War on Human Rights* (London: Faber and Faber, 2004), 2.

²⁸⁴Martha Lincoln, “Black Hole, Gulag, Country Club: A Map of Guantanamo Bay”, *Socialism and Democracy* 21, no. 2 (2007): 117. See also Kate Erbland, “Banksy’s Most Complicated Works”, *Mental Floss*, October 23, 2013, <http://mentalfloss.com/article/53298/banksy%E2%80%99s-11-most-complicated-works>, accessed August 3, 2019; “Artist Banksy targets Disneyland”, *BBC News*, September 11, 2006, <http://news.bbc.co.uk/2/hi/entertainment/5335400.stm>, accessed August 3, 2019.

²⁸⁵Lincoln, “Black Hole, Gulag, Country Club”, 117. See also Kate Erbland, “Banksy’s Most Complicated Works”, *Mental Floss*, October 23, 2013, <http://mentalfloss.com/article/53298/banksy%E2%80%99s-11->

depicting a hooded, kneeling, and handcuffed figure in an orange jumpsuit also adorned a wall in London in 2007 (See Figure 4.3), while t-shirts and tote bags of similar images were sold through various online webstores associated with the artist.²⁸⁶



Figure 4.2 "Artist Banksy targets Disneyland", BBC, September 11, 2006. Photo Credit: www.woostercollective.com

[most-complicated-works](#), accessed August 3, 2019; "Artist Banksy targets Disneyland", *BBC News*, September 11, 2006, <http://news.bbc.co.uk/2/hi/entertainment/5335400.stm>, accessed August 3, 2019.

²⁸⁶ See the now defunct website banksytshirts.org.



Figure 4.3 Banksy Graffiti, London, 2007. Photo Credit: banksyunofficial.com

While the Pentagon, once realizing their misstep, attempted to prevent news media sources from using the photographs²⁸⁷, these images therefore quickly took on an iconic status, escaping the confines of their production and encapsulating for some all that was misguided in the “war on terror” campaign – legality held in abeyance, the denigration of the rule of law, and humans subjected to practices firmly outside of the normative procedures of liberal democratic states. However, to others, these first images were in fact welcome evidence of a deserved retribution, and of revenge for the events of 9/11 against a vanquished, cowed enemy: a 2002 Gallup poll conducted immediately after their publication found that 72% of Americans supported the treatment of so-called “Taliban soldiers” at Guantanamo, and numbers in support of the camp have not significantly waned in the intervening years.²⁸⁸

²⁸⁷ Van Veeran, “Captured by the camera’s eye”, 1722.

²⁸⁸ Lydia Saad, “Few Americans Object to Treatment of Guantanamo Bay Captives: Three in four say it’s ‘acceptable’”, *Gallup*, February 7, 2002, accessed February 8, 2019.

In both instances, the image depicted in 4.1, and others of its kind, served distinct, yet connected purposes and effects. On the one hand, they provided the visual evidence necessary to reiterate for both critics and supporters their positions on the camp and its practices. On the other, they identified prisoners as certain kinds of subjects: outside of the boundaries of law, dehumanized (by virtue of their 'actions' or by virtue of their treatment), and abandoned (deservedly or unfairly). The work of Guantánamo's early visual practices therefore also "structured... the very possibility for perceiving"²⁸⁹ detainees as viable and normative legal subjects. Importantly, such recognition pivoted on both the recognizability and unrecognizability of the detainees captured in these first images. Indeed, divested of context, it is impossible to tell whether the prisoners in Figure 4.1 are young or old, or even female or male. And yet, while this image obscures discernable markers of identity, it also offers an immediate, and visceral, racial, and criminal indexicality that is evoked by brown, shackled bodies clothed in prison garb. There is also a religious indexicality that is perhaps less discernable, yet nonetheless conjured in this image of lined-up, bowed, and penitent brown male bodies. This conjuring, however, is just that – it is a summoning of visual tropes of subordination as it relates to Muslim bodies.

<https://news.gallup.com/poll/5302/few-americans-object-treatment-guantanamo-bay-captives.aspx>. Generally speaking, broad-based support for the camp continues. See Justin Mccarthy, "Americans Continue to Oppose Closing Guantanamo Bay: Opinions on closing the prison have changed little since 2009", *Gallup*, June 13, 2014, accessed February 8, 2019, <https://news.gallup.com/poll/171653/americans-continue-oppose-closing-guantanamo-bay.aspx>, and "CNN/ORC Poll: Americans Oppose Plan to Close Guantanamo Bay", *CNN*, <https://www.cnn.com/2016/03/04/politics/guantanamo-bay-poll-north-korea/index.html>, accessed June 3, 2019.

²⁸⁹Judah Schept, "(Un)seeing like a prison: Counter-visual ethnography of the carceral state", *Theoretical Criminology* 18, no. 2 (2014): 216

Muslimness, in this sense, is both present and denied; it hovers in and around the frame, a haunting made all the more palpable by what is left unspoken.

This conjuring, as I have shown in Chapter 2, is far from innocuous, working as it does to ascribe a certain kind of culpability and intent to these prostrated Muslim bodies, even when they are ostensibly rendered incapacitated. Indeed, the placement of detainee bodies in this way, even as they are surrounded by military officers and secured in a highly regulated offshore space, marks them as lying somewhere between the *Muselmann* as a resigned figure in thrall to Divine Will, and the ungovernable Muslim who cannot help but to be excluded from community because of his religious attachments. This image, and the positioning of the detainees, visually and metonymically reiterates Muslim men *as* governable, but only through specific forms of governance and detention, and as necessitating *being made subject to* state power and state violence in particular ways.

The particulars of the image in 4.1., then, mark it as not just any other carceral image. Indeed, it is arguably the *sine quo non* of Guantánamo Bay, containing both the rationales and scope of the camp, the targets of its violence, and the kinds of visual practices that work to legitimate both. Speaking about images of torture taken at Abu Ghraib prison, Butler reminds us that “the camera angle, the frame, the posed subjects all suggest that those who took the photographs were actively involved in the perspective of the war, elaborating that perspective and even giving it further validity.”²⁹⁰ This visual encoding of perspectives is present also in Guantánamo. The camera angle, the frame, and the

²⁹⁰ Butler, “Photography, War and Outrage”, 822.

posed subjects suggest also that in taking these images, the American state itself, rather than the “few bad apples” involved in the Abu Ghraib images, was actively involved in elaborating and legitimating their perspective through and against the bodies of Muslim detainees.

In doing so, the state also drew and built upon both the ambiguity and certainty that is embedded in 4.1. In the immediate aftermath of the 9/11 attacks, dead hijackers presented a dilemma for the United States. As death forestalled these specific men from receiving retribution, suitable replacements had to be found. However, the first detainees to land in Guantánamo and to be captured by military photographers, although captured under the pretext of being responsible for the 9/11 attacks, were more than mere proxies. They were also perceived and framed *as* the hijackers, insofar as the violence that emerged from the actual perpetrators was understood to be a portion of a share, a share that encompassed those who were seized for detention in Guantánamo. In the phantasmas that haunt and direct such slippages, “before one has caught sight of the threatening figure of the racialized other, one senses or ‘feels’ that spectral presence that radiates precognition, tacit, ‘intuitive’ danger and threats of violence.”²⁹¹ The slippage between the presentiment of danger and the assigning of culpability is evident in a statement made by then-Secretary of State Donald Rumsfeld. Rumsfeld, in response to questions as to why detainees were restrained and immobilized in the manner shown in Figure 4.1, emphasized that this total incapacitation was a necessary measure to prevent them from killing

²⁹¹ Joseph Pugliese, “Compulsory Visibility and the Infralegality of Racial Phantasmata”, *Social Semiotics* 19, no. 1 (2009): 26.

“again”,²⁹² even though there was, and remains, scant evidence of such violence for the majority of those detained²⁹³ President Bush likewise described the first detainees as “suspected bomb makers, terrorist trainers, recruiters and facilitators, and potential suicide bombers. They are in our custody so they cannot murder our people.”²⁹⁴ The implications behind such statements were that these men were “beings whose very propensity is to kill: that is what they would do as a matter of course.”²⁹⁵

In this sense, it mattered little (if at all) whether the men captured were involved with the 9/11 attacks. What mattered was the perceived shared likeness between the hijackers and these men. This likeness emerged from a blending of materiality (race, ethnicity, gender) and immateriality (ideology, religion) that fused typology and corporeality, and from which a particular topography, punctured by violent intent, of the detainee body emerged. These perceptions were further underscored by a framing of the “war on terror” as a war of civilization vs. barbarianism,²⁹⁶ meanings which were also recapitulated in the first images of the camp. Of them, Gregory writes:

[W]hen the first prisoners from Afghanistan arrived at Guantánamo Bay ...it was viscerally clear that they were to be reduced to bare life. All legal protections had been visibly withdrawn from them. Photographs of their ... incarceration at once displayed and reinforced their reduction to something less than human. [O]ne reporter wrote: ‘[They] don’t look natural. They look like giant bright orange flies’.²⁹⁷

²⁹² Butler, *Precarious Life*, 74, emphasis added.

²⁹³ See Spencer Ackerman, “Only three of 116 Guantanamo Detainees Were Captured by US Forces”, August 25, 2015, accessed June 19, 2019, <https://www.theguardian.com/us-news/2015/aug/25/guantanamo-detainees-captured-pakistan-afghanistan>.

²⁹⁴ Shomura, “These are Bad People”, 11.

²⁹⁵ Butler, *Precarious Life*, 73-4.

²⁹⁶ Gregory, “The black flag”, 410.

²⁹⁷ Gregory, “The black flag”, 414.

That the image in Figure 4.1, and others like it, raised comparisons of prisoners to something “less than human”, or, more precisely, to something akin to an animal – “they look like giant bright orange flies” – is neither accidental nor were they without portent.²⁹⁸ In other words, while violence was read as immanent to the detainee bodies, the ambiguous and “limited conceptions of being” that emerged within and through these images also “influence[d] the scope or the limits determining [their] treatment in the face of law.”²⁹⁹ Uncertainty and ambiguity around who could properly be seen as a subject of normative legal practices, and, by extension, a subject imbued with “human rights”³⁰⁰, were the very ingredients that allowed for the abusive and demeaning treatment of prisoners and a severe “slackening of [the] norms and legal frameworks” needed to extend them such rights.³⁰¹ Moreover, “degrading treatment of the detainees had foundations” prior to law’s intervention, in “reasoning and practices

²⁹⁸ See Andreja Zevnik, who points further to how the animal/human distinction worked in Guantanamo. Zevnik notes that “detainees ... and their lawyers commonly refer to the treatment as being ‘animalistic’ or ‘worse’”. She also highlights how “detainees demanded to have the same rights as dogs in the camp, or to have the same rights as iguanas living on the base. As some detainees said, they demanded ‘dog-rights’ because a dog in the camp had a house, water, food, shade, and grass on which to exercise.” For Zevnik, in “the realisation the detainees had about their own position; that is, that a dog was treated better than they were... [t]hey associated/identified with the status of a dog, or with what was in that dog that was similar to the detainees. [T]hey ‘gave up’ on ‘legal humanity’ ... and departed from what in a legal discourse of rights is inherently seen as a ‘higher form of life,’ a human life. They abandoned ideas one has about human life to legally live better as ‘a dog’”. Andreja Zevnik, “Becoming-Animal, Becoming-Detainee: Encountering Human Rights Discourse in Guantanamo”, *Law Critique* 22, no. 2 (2011): 157, 163.

²⁹⁹ Zevnik, “Becoming-Animal, Becoming-Detainee”, 156.

³⁰⁰ Zevnik draws on Costas Douzinas to note that “legal subjectivity institutes a particular notion of the subject as the only full bearer of human rights [while] to be recognized as the subject of human rights one has to be more than a ‘biological human’, and that there is nothing that is inherently in ‘the human’ that makes human automatically the subject of human rights. Douzinas writes: “I am human because the other recognizes me as human which, in institutional terms, means as a bearer of human rights”. See Costas Douzinas, *The End of Human Rights: Critical Legal Thought at the Turn of the Century*, (London: Hart Publishing, 2000), 371-372 as cited in Zevnik, “Becoming-Animal, Becoming-Detainee”, 156.

³⁰¹ Zevnik, “Becoming-Animal, Becoming-Detainee”, 156.

constituting and determining legal subjectivity” or the lack thereof³⁰²; these included, among them, visual practices that rendered detainees as both equivocations of human and as outside of the norms of law.

Relations of visibility (as certain kinds of bodies) and invisibility (before the law) therefore worked to materialize the “discursive relations of power that effectively constitute[d], regulate[d], and determine[d]”³⁰³ the ways in which detainees were seen, or not seen, in and by law. The connections between being seen through images and being seen in and by law are also apparent in the fact that the U.S. government has steadfastly refused to confirm the identities of the seventeen Muslim men contained in Figure 4.1, despite repeated attempts by human rights organizations to give names to these largely indistinguishable bodies.³⁰⁴ Naming holds an important relation to law, as we will see in the *habeas* cases. At this point, it suffices to note that in visually apprehending these men – in other words, in seeing them and in making them seen – while simultaneously refusing to name them as distinguishable persons, the state perspective generated and disseminated by visual practices in Guantánamo’s early days further established prisoners as unrecognized and unrecognizable, and to

³⁰² Zevnik, “Becoming-Animal, Becoming-Detainee

³⁰³ Joseph Pugliese, “Asymmetries of terror: visual regimes of racial profiling and the shooting of Jean Charles de Menezes in the context of the war in Iraq”, *Borderlands*, 5, no. 1 (2006): 7

³⁰⁴ Van Veeren notes that “it took four years and a court ruling under the Freedom of Information Act for the government to release the names of the men held at Guantanamo, though to date the U.S. military refuses to confirm the identities of the first twenty detainees ‘captured’ in (the first) photographs, despite public knowledge that the ‘Tipton Three (UK citizens Ruhul Ahmed, Asif Iqbal, and Shafiq Rasul) were among those who arrived in January 2002. Rosenberg, ‘Photo Reverberates’; Matt Davis, ‘US lifts Guantanamo veil of secrecy’, BBC News Online, March 4 2006, <http://news.bbc.co.uk/1/hi/world/americas/4773050.stm>, accessed January 9, 2019, as cited in Van Veeren, “Captured by the camera’s eye”, 1732-1733.

reiterate them as dehumanized, denigrated, and diminished subjects, and as removed from the shared community of law and rights.

I have argued in Chapter 1 that while Guantánamo is a space voided of law as usual, it is also replete with the apparatuses of law. The manner in which law operates in the detention camp means also that while image in Figure 4.1 is one of legal abandonment, it is also simultaneously one of legal categorization at work. In other words, in building and reiterating a specific construction of (i)legal subjectivity that is both outside the normal bounds of “law”, it also captures detainees as subject to the effects of the dense array of classificatory and regulatory work that has enabled conditions at the camp. The detainees within the frame of Figure 4.1 are, therefore, made locatable as both within and without law; they are both ambiguous and identifiable, and both severed from and yet deeply embedded in the legal circuits that make Guantánamo possible. We see, once again, the simultaneously intimate, yet distancing, effect of such an image, a seemingly contradictory relation until we consider its reiterative and productive effects, wherein it works to both elaborate and give validity to the liminal legal status of detainees.

4.2 Within Law but Missing from the Frame: The Habeas Cases and Images during Legal Intervention

The right to look confronts the [force] who say to us, “Move on, there’s nothing to see here.” Only there is, and we know it and so do they. The opposite of the right to look is censorship, then, but “visuality,” that authority to tell us to move on, that exclusive claim to be able to look.³⁰⁵

Nicholas Mirzoeff, *The Right to Look: A Counterhistory of Visuality*, 2011

³⁰⁵ Nicholas Mirzoeff, *The Right to Look*, 1-2.

The close relationship between law, state violence, and processes of legal (il)legitimacy is further captured in a series of cases involving detainee rights that came before the Supreme Court of the United States (SCOTUS), between 2004 and 2008. While the *Hamdi* (2004), *Rasul* (2004), and *Boumediene* (2008) cases involved a host of jurisdictional and constitutional questions, most relevant to this chapter's focus on the relationship law and visual practices have in legitimating exclusionary legal categories and shaping the limits of recognizability (both in law and within the frame) are those issues related to *habeas corpus* rights. Legal claims based on *habeas corpus*, a term which literally translates to "you shall have the body" involved courts evaluating the state's jurisdictional responsibilities in bringing bodies of detainees before the courts, thereby allowing them access to the American judicial system and, by extension, membership in the larger corpus of the nation.³⁰⁶ One of the ways that this membership was made possible was via the mere fact of *naming*. In seeking to bring their bodies before the courts and under the jurisdiction (and therefore protection) of American legal conventions, detainees were individuated – Hamdi, Rasul, Boumediene – through the very act of making legal claims. This is a striking shift, especially when considered against the intensely dehumanizing images of unnamed detainees that encapsulated Guantanamo's early days.

However, the legal interventions that are the *habeas* cases also point us towards how juridical decision-making around these questions, while ostensibly granting a more robust legal personhood to detainees, instead works to further mark them as diminished legal subjects. Meanwhile, visual practices during this

³⁰⁶ See Agamben, *Homo Sacer: Sovereign Power and Bare Life*.

period of intensive legal intervention respond in such ways as to render detainees invisible, even as they are reasserted as rights-claiming and rights-bearing bodies. In this sense, visual practices work *with* and *against* law, as the “state’s visuality aims [to] fashion[] the appearance of its own authority and attending violence”³⁰⁷, in concert with and over and above the reach of legal reasoning.

Guantanamo’s *habeas* cases present the possibility for particularly rich and diverse analyses, given the troves of primary materials available and the complex legal arguments used by government agents, legal actors, and the detainees themselves. However, rather than delving into their legal minutiae, or critically examining the language they use, I present in this section a truncated synopsis of the facts of the case and the legal reasonings behind the findings of the court. This approach allows for my analysis to highlight the generative effects of legal acts, where simply by the mere virtue of their pronouncement, they produce an array of effects and meanings. In this regard, the legal work generated by law’s overture, when read in and through the detention camp and its images, indicates also that with regard to specific kinds of (il)legal subjects, it matters less what specific actors *said*, and more so what legal pronouncements *do*. It is, admittedly, a rather positivistic approach. However, it is also one that is reflective of both the forms and effects of the law used to justify the existence of the detention camp. Moreover, I also show that while legal pronouncements do certain things, they also entangle with visual practices in such ways as to undermine the effect of this doing. In this way, I read these court cases as both productive of and as mediated

³⁰⁷ Tyler Wall, “Staring Down the State: Police Power, Visual Economies, and the ‘War on Cameras’”, *Crime Media Culture* 10, no. 2 (2014): 140.

by and through images of the camp. In keeping with this methodological standpoint, I focus on how, in each case, the SCOTUS largely preserved the separation of powers, overturned laws denying prisoners *habeas* rights, and eventually established these rights as constitutional. I argue that the effects of these rulings fail to grant a robust legal personhood to detainees, and, upon closer examination, are more closely aligned with state objectives than the decisions of the court imply.

In June 2004, the Supreme Court handed down its ruling in *Hamdi v. Rumsfeld* on the question of whether Hamdi, a U.S. citizen, had rights of due process and therefore the ability to challenge his “unlawful enemy combatant” status before an impartial authority.³⁰⁸ In their decision, the Court generally accepted the government’s position that enemy combatants were not guaranteed rights under the Geneva Conventions,³⁰⁹ as well as their argument that the 2002 *Authorization for the Use of Military Force* (AUMF) “implicitly conferred authority to the executive to detain traditional ‘incidents’ of warfare”, that these incidents included the power to detain enemy fighters in at least some circumstances, and that this authority would apply to persons who “fought against the United States in Afghanistan as part of the Taliban.”³¹⁰

Despite these findings, the Court ultimately found that Hamdi was still guaranteed access to a degree of due process rights, and was able to challenge his

³⁰⁸ Human Rights First, “Timeline of Guantánamo”, accessed August 01, 2019, <http://www.humanrightsfirst.org/uploads/pdfs/Timeline-The-History-of-Guantánamo.pdf>

³⁰⁹ See *Hamdi v Rumsfeld*, 542 U.S. 507, 518 (2004) (plurality opinion).

³¹⁰ Robert Chesney, Larkin Reynolds, and Benjamin Wittes, “The Emerging Law of Detention: The Guantánamo Habeas Cases as Lawmaking”, *U of Texas Law Public Research Paper* 195, 1-172. In these findings, the Court also left open the exact meaning of both terrorist organizations and membership in them.

status before the courts. On the same day, they ruled in *Rasul v. Bush* that United States courts had jurisdiction to consider legal appeals filed on behalf of foreign citizens held by the U.S. military in Guantánamo³¹¹, and granted *habeas* rights to prisoners seized in wartime.³¹² While the Court also recognized that the Bush administration had overstepped the bounds by shunting aside the Geneva Conventions in favor of an unprecedented system of arbitrary detention, the question of whether the U.S. Constitution could be applied to Guantánamo and its detainees was left unresolved by the Court – “save for a mention in a footnote, the Court carefully avoided the question of whether noncitizens in Guantánamo Bay have access to constitutional protections and rights.”³¹³

Between the 2004 *Hamdi* and *Rasul* decisions and the 2008 *Boumediene* decision, the *Detainee Treatment Act* of 2005 (DTA) attempted to clarify the still murky legal status of detainees and, more specifically, their treatment while in U.S. custody. In the wake of worldwide outrage over the publication of images of prisoner abuse at Abu Ghraib prison in Iraq, and the SCOTUS’ legal intervention, Congress passed the DTA in December of 2005. It forbade the use of cruel, unusual, or inhumane treatment or punishment, required that military interrogations be performed in accordance with the US Army Field Manual for

³¹¹ In doing so, the Court relied heavily on precedent set forth in the *Johnson v Eisentrager* case. Interestingly, this case, in the legal questions put before the Court, was almost identical to the ones set forth by *Rasul*, yet the Court came to an opposite conclusion, finding that the U.S. did *not* have exclusive jurisdiction to hear the habeas claims of German petitioners held in a U.S. army facility in Germany. See *Johnson v Eisentrager* 339 U.S. 763 (1950).

³¹² Amy Kaplan notes that *Rasul* can also be read spatially: in other words, while the Bush administration attempted to physically place detainees outside of the reach of federal courts, the judicial check on executive power “brought Guantánamo – and executive authority – inside the rule of law”. Conversely, she states that move can also be read as extending and strengthening American authority, by “expand[ing] the realm of U.S. juridical dominion beyond its national borders”. Amy Kaplan, “Where is Guantánamo?,” *American Quarterly* 57, no. 3 (2005): 846.

³¹³ Kaplan, “Where is Guantánamo?,” 841

Human Intelligence Collector Interrogations, and established the use of Combatant Status Review Tribunals (CSRTs) under the Department of Defense, where the status of detainees as enemy combatants could come under periodic review. Significantly, and likely in response to judicial intervention, the DTA also moved to strip U.S. courts of the jurisdiction to hear *habeas* petitions filed by detainees, while also giving exclusive jurisdiction to the D.C. Circuit Courts to review any findings by the CSRTs (within a limited scope).³¹⁴

In 2006, the *Hamdan v. Rumsfeld* case, involving a Guantánamo detainee challenging the legitimacy of the use of military commissions to try him on charges of conspiracy, resulted in SCOTUS gutting much of the DTA. The Court found that the DTA did not prevent federal jurisdiction over *habeas* claims that were under way at the time of the DTA's enactment. The Court also rebuked the Bush administration, finding that the President could not ignore the limitations that Congress can place on his powers, as a function of their own wartime powers.³¹⁵ The Court further found that the use of military commissions did not comply with the Geneva Conventions, a requirement under the *Uniform Code of Military Justice*.³¹⁶ While the Court's finding that, despite the state's "enemy

³¹⁴ See United States. Cong. Detainee Treatment Act of 2005, as included in the Department of Defense Appropriations Act, 2006. It is interesting to note that it was the Supreme Court, in the *Hamdi* decision, who suggested the use of military review procedures for determining the continued appropriateness of the enemy combatant status for detainees and in order to ensure compliance with international law. See *Hamdi v Rumsfeld*, 542 U.S. 507, (2004)

³¹⁵ *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006). Justice Stevens, citing *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U. S. 579, 637 (1952) (Jackson, J., concurring), stated that "whether or not the President has independent power, absent congressional authorization, to convene military commissions, he may not disregard limitations that Congress has, in proper exercise of its own war powers, placed on his powers.

³¹⁶ The Court found that military commissions, under the DTA, did not allow for detainees or their attorney to view classified information, and as such were a violation of Common Article 3 of the Geneva Conventions, which prohibits "the passing of sentences and the carrying out of

combatant” designation, the Geneva Conventions still applied to detainees and thus further established basic legal guarantees for detainees, Khalili notes that

the actual opinion was far more concerned with the fidelity of the process to a set of pre-established procedures, to the formal rituals of justice, and to the clear delineation of the duties of the branches. Absent in the issued opinions were any substantive concerns that may arise when the most powerful state in the world holds hundreds of men in detention thousands of miles from their homes or the battlefield with minimal access or oversight by monitors, the press, or the public. The variation in opinion in the Court’s decision seemed to concern the extent to which a detainee can be bound to and by law and the state, and about extending the empire of the law, rather than a question of justice. The liberal judges seemed to be more exercised by the perceived slight to the rule of the judiciary in what reads like a jealous guarding of the judiciary’s domain.³¹⁷

In response to the Court’s evisceration of the DTA in *Hamdan*, in 2006 Congress passed the *Military Commission Act* (MCA) which authorized the use of trial by military commission for violations of the law of war.³¹⁸ The MCA placed further limitations on detainee rights (including allowing for the admission of coerced and hearsay evidence), and expressly stated that “no alien unlawful enemy combatant subject to trial by military commission ... may invoke the Geneva Conventions as a source of rights”. It also stripped U.S. courts of all federal jurisdiction for *habeas* claims, stating that “no court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of *habeas corpus* for such unlawful enemy combatants”.³¹⁹ This set the stage for the *Boumediene* case.

executions without previous judgement pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples”. See *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006), 6.

³¹⁷ Khalili, *Time in the Shadows*, 86.

³¹⁸ Pub. L. No. 109-366, 120 Stat. 2600 (Oct. 17, 2006), enacting Chapter 47A of title 10 of the United States Code

³¹⁹ Pub. L. No. 109-366, 120 Stat. 2600 (Oct. 17, 2006), enacting Chapter 47A of title 10 of the United States Code.

In 2008, the SCOTUS ruled in *Boumediene v. Bush* that detainees at Guantánamo have the right to challenge their detention through *habeas* writs, after finding that the *habeas*-stripping provisions of the DTA and MCA (2006) were unconstitutional. This time around, they also found that these rights were constitutionally guaranteed, firmly establishing jurisdiction for federal courts to hear petitions for *habeas corpus* from Guantánamo detainees tried under the Act.³²⁰ The decision was heralded by human rights organizations and lawyers as a landmark moment in the legal life of Guantánamo and for detainees. Justice Kennedy's opinion lauded the enduring legacy and force of American constitutional rights: "The laws and Constitution are designed to survive, and remain in force, in extraordinary times. Liberty and security can be reconciled, and in our system, they are reconciled within the framework of the law".³²¹ However, it is important to note that the MCA (2006) as a whole survived *Boumediene*, although section 7, the provisions suspending *habeas corpus*, are no longer in effect.

The *habeas* cases that came before SCOTUS resulted in decisions that, against the legal maneuvering of the state, seemed to gradually establish detainees as legal, rights-bearing subjects. By granting them access to the courts and the potential to seek legal remedy, and by placing checks on the reach and limits of governmental authority over and above the judiciary, the decisions of the Court seemed to bring detainees within the purview and ambit of American legal frameworks and to flesh out their legal personhood. However, a closer

³²⁰ Ahmad, "Resisting Guantánamo", 1684.

³²¹ Ahmad, "Resisting Guantánamo", 1684.

analysis of these cases and the manner in which the SCOTUS rulings have played out in district federal courts casts a dim view of the extent to which that legal personhood operates to any effect for the detainees. The “ground-breaking” legal victory in *Boumediene* has worked only to “narrow the space in which [Guantánamo] is allowed to operate”, and the assertion of rights in this decision has not been enough to bridge the “vast space that can exist between judicial decree and executive action”.³²² This gap is apparent in the fact that while the SCOTUS has awarded legal victories to detainees in all of the Guantánamo cases that have come before it, the detention camp, indefinite detention, and the legally anomalous lives of detainees persist.³²³ The SCOTUS decisions worked predominantly to extend and cement the power and jurisdiction of the courts, especially in relation to its rivalry with the executive branch, but did little to grant rights directly to detainees. In sum, the granting of procedural, rather than substantive, rights were the effect and outcomes of these decisions. Even then, the parameters around which the Court set out how due process or procedural rights were to be ensured were based on the most minimal of requirements.

Upon closer consideration, then, there is in fact a neat synergy between the position of the American government and the position of the American courts, even as the former attempted to operate outside of the purview of law-as-usual and the latter worked to reassert legal boundaries. This coextensive relationship can also be seen in the fact that decisions in the *habeas* cases relied

³²² Ahmad, “Resisting Guantánamo”, 1685. It is also worth noting that in *Boumediene*, the Court refused to rule on two of the most fundamental issues surrounding Guantánamo: “the definition of ‘enemy combatant’ and what procedures should govern the habeas proceedings”. See Ahmad, “Resisting Guantánamo”, 1713.

³²³ Ahmad, “Resisting Guantánamo”, 1686-7.

heavily on the same set of operating logics advanced by the government in the “war on terror” effort, and the necessary role of Guantánamo as a detention facility was reiterated and reinforced by the Court. For example, in *Hamdi v. Rumsfeld*, Justice O'Connor accepted the Bush administration's position that the “war on terror” gave the President and the executive branch sweeping powers to jail anyone they accused of being an “unlawful enemy combatant”.³²⁴ Similarly, in Justice Scalia's dissent in *Boumediene*, he warned of the “disastrous consequences” that come from “conferring the constitutional right to habeas corpus on alien enemies detained abroad by our military forces in the course of an ongoing war.”³²⁵ His prediction? “It will almost certainly cause more Americans to be killed.”³²⁶

I turn now to the second set of images this chapter considers, and read the above legal decision against both their content and their effect. What is most immediately striking about them is their relative emptiness; specifically, they are emptied of the detainees themselves. In juxtaposing visual practices of voiding against specific moments of decisive legal intervention, the invisibility and unrecognizability of the detainee as a visible and viable legal subject is made all the more bare, as is the paucity of rights and legal personhood enabled by the decisions.

³²⁴ Aradau, “Law Transformed”, 497.

³²⁵ *Boumediene v. Bush*, 553 U. S. 723 (2008), United States Supreme Court, (Dissenting Opinion), <https://supreme.justia.com/cases/federal/us/553/723/>

³²⁶ *Boumediene v. Bush*, 553 U. S. 723 (2008), United States Supreme Court, (Dissenting Opinion), <https://supreme.justia.com/cases/federal/us/553/723/>



Figure 4.4 New York Times, “Supreme Court Blocks Guantánamo Tribunals”, June 29, 2005. Photo Credit: John Riley/European Pressphoto Agency

In Figure 4.4, which accompanied a 2005 *New York Times* (NYT) story about the SCOTUS’ earliest rejection of military commissions in Guantánamo, barbed wire, an elaborate series of fencing, and a watch-tower emblazoned with the United States flag fill the frame. The Court’s decision, which ostensibly clawed back executive powers and thus widened legal avenues for detainees, is belied by the material content of this image. Once more, the frame is dominated by the cross-cutting, intertwining lines of an intricate barbed wire fence, while the perspective of the shot gives the impression that the wire extends from and beyond it, and that the picture has been taken from below, perhaps from the ground. Just visible, but slightly out of focus, is a small white sign affixed to the side of the fence which reads “No Photography”. It is an oddity that seems fitting to this space, where images function not only as extensions of state perspectives, but also capture the tangled and contradictory system of permissions and prohibitions that mark this space, and its prisoners. What is made clear,

however, by the omnipresence of the barbed wire, is that the detainees are literally caged in, surrounded not only by the fence and military guards. This cage is both literal and discursive: it works to sustain clear points of separation between the viewer and subjects, and between “them” and “us”, while also symbolizing the ways in which detainees are “hermetically sealed”³²⁷ within the camp through the withdrawal of legal protections and rights. Indeed, imagery around barbed-wire fencing has operated as a kind of visual motif of detention in Guantánamo, both in subsequent images produced by the state, and in those which build on this theme (see Figure 4.6 and 4.7).



Figure 4.6 *Time*, June 20, 2005

³²⁷ Lincoln, “Black Hole, Gulag, Country Club”, 117.

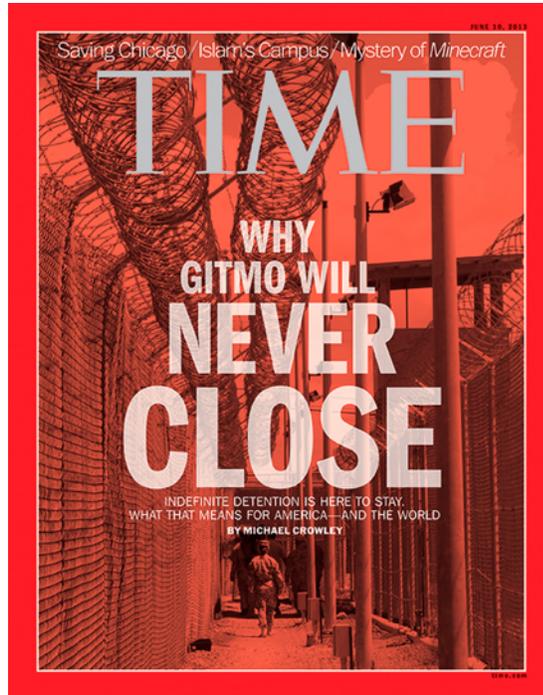


Figure 4.7 *Time*, June 10, 2013

In this sense, these photographs are not merely repeated in their material content, but in the associations, they conjure and the signifying work that they do. In other words, these images initiated a mobilization of a visual vocabulary that came to stand as a shorthand for both the camp and the forms of detention that were deemed appropriate to this space.



Figure 4.5 “Justices, 5-4, Back Detainee Appeals for Guantánamo”, New York Times, June 13, 2008. Photo Credit: Todd Heisler/The New York Times.

Figure 4.5 was published in June of 2008, alongside a brief NYT story detailing the findings of the SCOTUS in the *Boumediene* case, wherein the *habeas* rights of detainees were declared constitutionally guaranteed. From the point of view of content, this image is almost identical to that in Figure 4.4, although the latter was produced and circulated 3 years earlier. One difference may be found in the almost telescope-like effect of the angle of the shot, wherein we are made to view from a distance while having a precise target for our gaze: namely, the figure standing in the watchtower in the background of the image. Silhouetted, he holds guard, while we, the viewers, observe his watching, although we cannot see what he sees. Despite this difference, in the intervening years between the two photographs, it appears that the state perspective has not shifted. In the implied views of these images, we see once again the repetition of the raw materials that characterize indefinite detention in “the war on terror” and that produce a particular perspective that dominates the frame: barbed wire, elaborate fencing, watchtowers, military presence, surveillance, and, in these

instances, absent detainees. To this latter point, “by working to regulate the visual economies of ... state power” state visual practices produced “(non)scene[s] – a state-crafted image where there is simply ‘nothing to see.’”³²⁸ However, they are also images that clearly establish that there is indeed something to see; namely, Guantanamo as an intensely surveilled and securitized site, and detainees as made subject to this site.

The interplay of visibility and invisibility in the visual work of state violence once again appears, as even in their material absence from the frame, detainees are made subject to and differentiated by the “coercive looking practices”³²⁹ that are conjured by the content of this image. Indeed, who else but the detainees do the watchtowers purport to surveil, and who but the prisoners are contained to this space for observation and interrogation? Even as they are entirely voided from this image, then, detainees are produced by and through these coercive looking practices. Moreover, the site itself and the practices that characterize it are made all the more apparent, wherein “the visuality of prisons and other carceral institutions configures our ability to perceive them, the available vocabularies with which to speak of them, and the contexts in which to place them.”³³⁰

It is to the fact of non-presence that I now turn, as visual absence seems all the more striking when it is considered against a legal backdrop which seemingly granted the detainees a greater legal subjectivity through the

³²⁸Wall, “Staring Down the State”, 138. In his use of the term (non)scene, Wall draws on the work of Dylan Rodriguez, who coined this phrase. See Dylan Rodríguez, “(Non) scenes of captivity: The Common Sense of Punishment and Death”, *Radical History Review* 96 (2006): 9–32.

³²⁹Wall, “Staring Down the State”, 134.

³³⁰Schept, “(Un)seeing Like a Prison”, 201.

application of more normative understandings of rights. As I have argued throughout, there is an intimate connection between state violence, law, and the construction and deconstruction of legal subjectivities. This is especially apparent in times of war, which give birth to certain forms of “justice” that rely upon sweeping generalities and shifting imperatives in order to both subdue and subsume enemies. In this relationship, Colin Dayan argues that legal persons both emerge and recede, alongside legal claims that conjure up forms of justice that “seek to abolish the states of person.”³³¹ This abolishment of the legal person depends as much on objective evidence as it does on “hunches about the essence, nature, or type of creature who is ripe and ready for domination.”³³² In bringing *habeas* cases before the courts, the goal of the detainees and their lawyers was to reassert a full legal subjectivity and its attendant rights. In doing so, they sought not only to quite literally bring the body of the detainee before judicial authority, but also to figuratively reconstitute it as a full legal person, to bring it back within legal and human community, and to imbue it with the rights and privileges that are thought to accompany this personhood. These rights and privileges go beyond questions of established law, and fundamentally speak to the humanity of legal or illegal subjects – a rightless subject is a dehumanized subject, and the opposite holds true.³³³ Read against Dayan’s argument, however, these attempts, and the response of the courts, must be tempered against a

³³¹ Colin Dayan, “Legal Terrors”, *Representations* 92, no. 1 (2005): 58-59.

³³² Dayan, “Legal Terrors”, 65

³³³ Douzinas, *The End of Human Rights*.

context of lawfare³³⁴ that is *founded* on the legally diminished, if not legally voided, figure of the “enemy combatant” / detainee.

The SCOTUS findings in the *habeas* cases, then, did little to disrupt the operating logics of the state, and they in many ways reiterated and vindicated the justificatory frameworks of “war on terror” narratives. It is possible also to apply such a reading to the adoption of the military commission regime, which was curtailed but still allowed by the courts. The commissions have further “provide[d] a mechanism for making detainees invisible even as the ritual of trial [gives] the small handful brought to court a severely circumscribed and surveilled platform from which to speak.”³³⁵ This invisibility is also characterized by a set of regulations and semi-judicial proceduralisms, which ban detainees from speaking about torture, not to mention the soundproof glass barriers and 40-second delays that allow military officials to control voices during these ‘trials’.³³⁶

Given this context, it seems no mistake that the *habeas* decisions have instead resulted in a further emptying of the detainee as a legal subject, and that this emptying has been reiterated in visual practices that continue to shape the apprehension or perceptibility of certain kinds of legal subjects and to establish a relationship between law and detainees. Put differently, juridical decisions through which detainees were rendered as quasi, semi, or not quite full legal

³³⁴ Here I invoke once again Khalili’s definition of lawfare, which she describes as “the invocation of law and legality as structuring the conduct of war, an absolute dependence on a set of clearly defined procedures and administrative processes as means of ensuring regulatory and ethical compliance, and finally a discourse of humanitarian intent”. Khalili, *Time in the Shadows*, 4.

³³⁵ Khalili, *Time in the Shadows*, 87

³³⁶ Khalili, *Time in the Shadows*, 87

subjects exist alongside and in tension with state visual apparatuses that frame approximations between law and lawlessness, legality and illegality, and the extent to which detainees emerge as rights-bearing figures or are subsumed as invisible objects of law. Moreover, such invisibility must be understood against a visual backdrop that seeks to make certain other things *visible* – containment, surveillance, and the logics of the camp itself.

What meanings can therefore be taken from state visual practices that *disappear* detainees in precise moments of partial legal intelligibility and recognition? In this chapter, I have argued that images and state visual practices may be analyzed in relation to how they construct and mediate legal classification and (il)legibility. Following this, it is also possible to understand the relationship between limited forms of legal recognition and state visual practices of disappearance in several ways. For one, as stated above, we may understand the disappeared detainee as producing certain meanings about the limits of legality and recognition. The void that is left by their absence is not a void at all; it is instead establishing a relation between law, detainees, and the camp, wherein the latter two are drawn into a certain proximity to, or distance from, the former. State visual practices thus also make use of *absent* detainees to assert them *as such*; in other words, even as *habeas* claims seek to surface and bring forth the body of detainees, these practices condemn them to beyond the frames of visibility, apprehension, and legal meaning. At the same time, these images reiterate and recirculate the particular forms of subjectivity, legal and otherwise, and visible or otherwise, advanced by the state, even as the judiciary attempts to apply normative legal boundaries around them. These forms of subjectivity do not just reside in the movement between law and state visual practices, or in

between visibility and invisibility; they are also taken up, circulated, and reiterated in public spaces. What bridges the gap between state visual practices that work with and in contradistinction to the law is the fact that in both instances, “the policing of visual economies works to make illegible the state’s violence.”³³⁷

These visual economies of erasure are produced by the state and further circulated through and by news media outlets, who, in choosing to run these images reiterate this illegibility. At the same time, this visual erasure of state violence is not total, as noted in images that highlight carceral conditions at the detention camp. However, it is at least partially achieved through disappearing the subjects of such violence (detainee bodies) and through normalizing its practices over and above the reach of law. This erasure of state violence is made even starker when we consider that images devoided of detainee bodies were produced during the same timeframe as when prisoners were engaged in protracted hunger-striking campaigns, and were made subject to force-feeding regimes.³³⁸ Finally, looking to the invisible, or that which has been voided from the frame, is “an effort to capture the apparition of state violence at the decisive moment it threatens to disappear from immediate fields of vision.”³³⁹

Avery Gordon notes that “to write stories concerning exclusions and invisibilities is to write ghost stories. To write ghost stories implies that ghosts

³³⁷ Wall, “Staring Down the State”, 138.

³³⁸ These strikes were undertaken, at least in part, in order to grant detainees greater legal visibility. Given this, they also figure greatly into the legal life of the camp. However, the particular ways in which the strike, force-feeding, and visual practices coalesce in Guantanamo demand a closer and more considered analysis than the framework of this chapter allows; the next chapter is dedicated solely to this issue.

³³⁹ Wall, 134.

are real, that is to say, that they produce material effects.”³⁴⁰ For Gordon, ghosts not only produce material effects – they are also, themselves, a “real presence [that] demands its due.”³⁴¹ The ghost that haunts and that is absent is, through this haunting and absence, a felt and discernible material reality. It draws our attention to that which has been hidden, but which is still “very much alive and present.”³⁴² In images that are voided of detainees, they still persist as such specters, and their absence is not simply an indication of their proximity to law. They are also locatable, and indeed precisely known, through what the image leaves out, and through what it fails to show but is already, always, in the process of capturing.

4.3 Legal and Visual Forgetting: Images post-Intervention

In the aftermath of the SCOTUS *habeas* decisions, the D.C. Circuit courts, which now have exclusive jurisdiction over Guantánamo’s *habeas* cases, have continued to largely endorse the perspective of the state. Immediately following the *Boumediene* case, there were a number of *habeas* claims that were granted³⁴³, but as of late the judges of the D.C. Circuit Court have pushed backed: since 2010, successful *habeas* petitions granted by lower courts have been overturned, while more than a dozen *habeas* petitions submitted by detainees have been

³⁴⁰ Gordon, *Ghostly Matters*, 17.

³⁴¹ Gordon, *Ghostly Matters*, xvi.

³⁴² Gordon, *Ghostly Matters*, xvi.

³⁴³ See *Basardh v. Bush*, 2009 WL 856345 (D.D.C. Mar. 31, 2009) (ordering release of Yasin Muhammad Basardh); *El Gharani v. Bush*, 593 F. Supp. 2d 144 (D.D.C. 2009) (ordering release of Mohammed el Gharani); *Boumediene v. Bush*, 579 F. Supp. 2d 191, 199 (D.D.C. 2008) (directing Respondents “to take all necessary and appropriate diplomatic steps to facilitate the release of Petitioners Lakhdar Boumediene, Mohamed Nechla, Hadj Boudella, Mustafa Ait Idr, and Sabr Lahmar forthwith”), as cited in Ahmad, “Resisting Guantánamo”, 1714.

turned down.³⁴⁴ For example, between October 2008 and July 2010, the D.C. District Court examined 38 *habeas* petitions brought by Guantánamo detainees and concluded that the state had failed to establish that the prisoners were involved with Al-Qaeda or the Taliban. However, a number of those successful petitions, were eventually reversed or vacated by the D.C. Circuit Court. The trajectory of these judicial trends is clear, and is encapsulated in the 2010 *Al-Adahi v. Obama* case, when an appeals court overturned a granting of *habeas corpus* and also criticized the lower court decision for “having tossed aside the government’s evidence, one piece at a time.”³⁴⁵

Al-Adahi v. Obama involved the case of a 39-year old Yemeni national who has been held at Guantánamo Bay since 2001, on charges that he was a member of Al-Qaeda. According to the government, Al-Adahi was a close confidante of Osama bin Laden’s, and was in close contact with him in the months before and following the 9/11 attacks. In 2004, a Combat Status Review Tribunal (CSRT) determined that he was a member of Al-Qaeda. Despite this finding, a D.C. district court, in answer to Al-Adahi’s *habeas* claim, found that the government offered insufficient and largely circumstantial evidence. Without adequate proof of his membership in Al-Qaeda, the court found that he could not be justifiably held under the *Authorization of Military Force* (AUMF). On appeal, a district Court of Appeal reversed that decision, finding that according to the “preponderance-of-the-evidence standard” the lower court had seriously erred in its findings. In

³⁴⁴ Ahmad, “Resisting Guantánamo”, 1715.

³⁴⁵ *Al-Adahi v. Obama*, 613 F.3d 1102 (D.C. Cir. 2010), as cited in, “Towards the Closure of Guantánamo”, *Inter-American Commission on Human Rights*, <http://www.oas.org/en/iachr/reports/pdfs/Towards-Closure-Guantánamo.pdf>.

its decision, the appeal court chastised the lower court for taking some of al-Adahi's statements at face value, and reminded them that:

for those who belong to al-Qaida, '[c]onfronting the interrogator and defeating him is part of your jihad'. To this end al-Qaida members are instructed to resist interrogation by developing a cover story, by refusing to answer questions, by recanting or changing answers already given, by giving as vague an answer as possible, and by claiming torture. Put bluntly, the instructions to detainees are to make up a story and lie. Despite this the district court displayed little skepticism about Al-Adahi's explanations for his actions. To the extent the court expressed any doubts, it addressed them to the government's case and did so on the mistaken view that each item of the government's evidence needed to prove the ultimate issue in the case.³⁴⁶

The effect of the 2010 *Al-Adahi* decision was chilling for *habeas* claims filed on behalf of detainees, as it worked to replace what had previously been a method of "careful judicial fact-finding [with] judicial deference to the government's allegations."³⁴⁷ Before the *Al-Adahi* case, detainees won 59% of the *habeas* petitions and courts rejected the government's factual allegations in 40% of these cases. After the *Al-Adahi* case, detainees won 8% of the petitions and the courts rejected only 14% of the government's factual allegations. A report on these *habeas* claims notes that "the shifting patterns of lower court decisions could only be due to an appellate court's radical revision of the legal standards thought to govern *habeas* petitions."³⁴⁸ One such radically different legal standard, adopted by both the Bush and Obama administrations in military commission processes, and taken up by D.C. district courts post-*al-Adahi*, involves a loosening of evidentiary

³⁴⁶ *Al-Adahi v. Obama*, 613 F.3d 1102 (D.C. Cir. 2010)

³⁴⁷ "Towards the Closure of Guantánamo", *Inter-American Commission on Human Rights*, <http://www.oas.org/en/iachr/reports/pdfs/Towards-Closure-Guantánamo.pdf>, 76.

³⁴⁸ See Seton Hall University School of Law, Center for Policy & Research, "No Hearing Habeas: D.C. Circuit Restricts Meaningful Review", May 1, 2012. Available at: <http://law.shu.edu/ProgramsCenters/PublicIntGovServ/policyresearch/upload/hearing-habeas.pdf>, as cited in "Towards the Closure of Guantánamo", 76.

strictures. For the government, and now the courts, “evidence against detainees [should be] viewed holistically, as a composite, even when individual pieces were missing or might have a benign explanation.”³⁴⁹ This is evident in the district Court of Appeals’ treatment of what the government considered a key piece of evidence in their case against al-Adahi – a piece of evidence that the lower court had deemed inconsequential. The Court of Appeal noted that:

...al-Adahi wore the same model of Casio watch the military has linked to al-Qaida and terrorist activity. When Pakistani authorities picked up al-Adahi they confiscated his watch. A witness reported seeing him wearing the Casio watch before his capture. The district court threw out these telling facts because, after all, “Casio watches are hardly unique items, even in Afghanistan”. It is true that not everyone in Afghanistan with a Casio watch could be identified with al-Qaida. But the evidence did not relate to every such person.³⁵⁰

Post-*Boumediene*, D.C. district courts have thus taken “a posture of extreme deference toward the executive branch, instructing the judges who actually hear these cases to permit the government to draw every inference against the detainee and to evaluate the evidence according to a very relaxed standard of proof.”³⁵¹ Meanwhile, the Supreme Court has steadfastly refused to hear any more cases pertaining to Guantánamo and detainee rights³⁵², a refusal that

³⁴⁹ Linda Greenhouse, “The Mirror of Guantánamo”, *New York Times*, December 11, 2013, accessed November 11, 2017, <http://www.nytimes.com/2013/12/12/opinion/greenhouse-the-mirror-of-Guantánamo.html>.

³⁵⁰ *Al-Adahi v. Obama*, 613 F.3d 1102 (D.C. Cir. 2010)

³⁵¹ Linda Greenhouse, “Guantánamo Dreams”, *New York Times*, December 24, 2014, accessed November 11, 2017, <https://www.nytimes.com/2014/12/25/opinion/guantnamo-dreams.html>.

³⁵² S.M., “The Supreme Court refuses to hear Guantánamo detainee’s appeal”, *The Economist*, June 12, 2019, <https://www.economist.com/democracy-in-america/2019/06/12/the-supreme-court-refuses-to-hear-a-guantanamo-detainees-appeal>, accessed August 1, 2019.

indicates that for the highest level of court in America, the matter of law in Guantanamo is largely settled.³⁵³

In February of 2016, a round of media tours of Guantánamo occurred after a four-month blackout on all news media. Described as a “new, leaner basic tour of the Detention Center Zone”, media visits occurred over half a day, rather than over what once consisted of four to five-day trips. Journalists were no longer allowed to interview guards or mental health professionals, or to observe the conditions of those detainees held in maximum-security detention. They were also no longer allowed to photograph restraint chairs used in the force-feeding of hunger-striking detainees. Camp X-Ray, the site of the first iconic images of Guantanamo, is now completely off-limits to media and photographers, although it once served as a “popular, approved stop ... designed to demonstrate that those conditions no longer exist.”³⁵⁴ In 2017, photographer Debi Cornwall published *Welcome to Camp America*, a book of images taken between 2014 and 2015 of the detention camp and the surrounding community that exists for military personnel and their families. In order to gain access to the camp, and as a condition of being allowed to take photographs, Cornwall “signed a dozen pages of regulations ...(which) prohibited her from photographing faces,

³⁵³ Perhaps not entirely, however. In the recent refusal of the SCOTUS to hear an appeal from Moath al-Alwi, a Yemeni prisoner who has been held at the camp for over 17 years, Justice Stephen Breyer stated that “in my judgement, it is past time to confront the difficult questions” left lingering in Guantánamo. See Nina Totenberg, “Justice Breyer Says It’s ‘Past Time’ To Confront Guantanamo’s ‘Difficult Questions’”, *National Public Radio*, June 10, 2019, <https://www.npr.org/2019/06/10/731341696/justice-breyer-says-its-past-time-to-confront-guantanamo-s-difficult-questions>, accessed August 7, 2019.

³⁵⁴ Carole Rosenberg, “Restraint chair? Gone. Camp X-Ray? Gone. U.S. military unveils leaner media visit to Guantánamo”, accessed March 03, 2016, *Miami Herald*, <http://www.miamiherald.com/news/nationworld/world/americas/Guantánamo/article63000807.html>. Rosenberg also notes that media visits now center around interviews with management officials, who stress the good work of guards, while censors scrub the photos and vids of reporters as they are flown out of the camp.

surveillance mechanisms, locks, and certain parts of the coastline.”³⁵⁵ In addition to these strictures, she was instructed to cover her camera’s sensor (akin to covering a camera’s lens when it comes to digital photography), and her camera was examined at the end of every day, so that military personnel could delete any pictures that broke regulations. In her three visits to Guantánamo Bay, Cornwall saw prisoners only once, from behind a two-way mirror. Hers was not a unique experience; in February of 2018, a NYT reporter described the sense of absurdity that clings to Guantánamo. He describes how “on one side of the wire stand buildings I was forbidden to photograph [was] a detention facility, where high value detainees are held, that the military won’t even acknowledge exists.”³⁵⁶ On the other side, military personnel and civilians went about their daily lives, as they “walked their daughters to ... preschool past tidy white stucco houses, test[ed] the avocados at the base supermarket and train[ed] in the cool of the morning for the annual Guantánamo marathon.”³⁵⁷

³⁵⁵ Strohlic, “Eerie Photos Reveal Life Inside Guantánamo Bay Prison”.

³⁵⁶ Dave Phillips, “The Gift Shop on Guantánamo Bay”, *New York Times*, February 8, 2018, accessed April 11, 2019, <https://www.nytimes.com/2018/02/05/insider/guantanamo-bay-base-community.html>.

³⁵⁷ Phillips dwells on how “the split between American and un-American popped up in unexpected ways. The base is home to a menagerie of endangered animals, including a flourishing population of Cuban rock iguanas. The cat-size lizards are protected by U.S. law, even though human detainees here are not”. See Phillips, “The Gift Shop on Guantánamo Bay.”



Figure 4.8 “The Long Reach of Guantanamo Bay Military Commissions”, *New York Times*, October 4, 2017. Photo Credit: Damon Winter/The New York Times

This chapter closes with a consideration of a final image taken in the “post-law” period in Guantánamo Bay. Published in 2017, in an NYT article detailing the continued use of military commissions, the image in Figure 4.8 is not as charged or overtly degrading as the initial images of the camp and its first prisoners, although it contains what has now been established as the visual markers of indefinite detention in the “war on terror”: an expanse of wire fencing, a surveillance perspective, and structures designed to convey securitization and containment of threat. Two paved holding areas, cordoned off into cage-like squares by the ubiquitous wire and barbed fence, take up the majority of the frame, their symmetry underscored by the expanse of pavement which runs down the middle of the image and separates them. One of these cages, to the right, is empty, but the one to the left contains a lone figure of a detainee. Unshackled, in one hand he holds what appears to be a towel, while his other arm is raised, grasping the wire fence that holds him in. The perspective of

the image is slightly elevated, giving the impression that the detainee is being observed from above, perhaps from another watchtower, the corner of which we can just make out in the left foreground of the image. This observation from above also implicates the viewer in the state perspective more so than previous images, as we are given the impression that *we* now, are the ones occupying the ever-watchful, state point of view, normally occupied by military personnel. The shift in perspective is a significant one, as we, the viewer, move from seeing prisoners at the brink of rights and law, to observing surveyors and surveillance of the camp, to *becoming* the watchers. To the left of the lone detainee, a row of towels, or perhaps clothes, hang to dry, lending what is almost an air of domesticity to the scene. This is a fleeting thought, one that is interrupted when we turn our attention back to the detainee: unshackled, divested of the lurid orange garb and methods of containment that marked him as both in thrall to and outside of law, he has made a dramatic reappearance in images of the camp and in the visual practices employed by the state.

On the surface, especially when read against Figure 4.1, it is possible to read into this re-emergence a certain settling of law and warfare. It is a far less contentious and tense image – there is no threatening or watchful immediate military presence, nor is there a recognizably violated detainee body; the detainee, this time, is both present and unbowed, unshackled, freed from the orange jumpsuit, and seemingly able to roam the confines of the camp. Moreover, while it is still a strongly punitive image, it is one that can be located on a recognized and legitimate continuum of carceral practices employed by the state in their domestic affairs. Divorced from its context, it could be an image of any prison, and of any prisoner. And yet. Just what is going on here? Let us

return to the detainee, once again. He faces the fence that surrounds him, holding one hand to its wires. Beyond the immediate barrier that contains him, there is a patchwork of grass and bleached pavement, and, just beyond that, what just appears at the edge of the image to be an identical system of structures to the ones that cage him in. In other words, he looks through the structures of his containment only to have the organized material of that confinement repeated back to him, indefinitely. The materiality of indefinite detention, a system that has never fully been up-ended or even severely curtailed by legal interventions³⁵⁸, echo in this image, but what reverberates also is its productive capacity to constitute a relation between the lone detainee and wider domains of legality, rights, and legal personhood. This is not just an image of sanitized, almost mundane, detention in the war on terror. It is instead an image of legal abandonment, of legal forgetting, and of law's collusion with warfare.

Conclusion

Patricia Williams offers that elements which have always been a part of the construction of legal knowledge – sight, sound, touch, fear – have not seriously been considered as formal matter but instead as existing somewhere beyond the expressible range of justice and its legislation.³⁵⁹ In this chapter, I have sought to think through images of Guantánamo Bay detainees alongside legal decisions and moments of legal intervention. I argued that legal and visual

³⁵⁸ See “Guantanamo’s indefinite detainees, held without charge or trial, will die there unless court intervenes: lawyers”, *South China Morning Post*, January 12, 2018, accessed January 11, 2019, <https://www.scmp.com/news/world/united-states-canada/article/2127895/guantanamos-indefinite-detainees-held-without-charge>

³⁵⁹ Patricia Williams, “Towards a Phenomenology of Skittles”, Working Paper Series, *Colloquium in Legal, Political and Social Philosophy*, New York University School of Law, 2016, 13.

shifts operate in concert with and alongside each other, shaping not just what and who is seen (or not seen) by law and visual practices of the state, but also the very grounds upon which recognizability and illegibility are shaped. Moreover, the non-legal/semi-legal status that characterizes detainees is vindicated and legitimated *through* the image, as both the absence and presence of law work with and through the visual to further make legible (or illegible) the detainee as a non-recognized, and non-recognizable, figure, which, in the process, further obscures the violence that attaches to the camp. Finally, the legal and the visual work alongside one another to normalize the forgetting of detainees abandoned to the logics of the camp.

In placing these images in such relation to law, it is possible to reflect further on the meanings that accrue through visual practices and that are deeply implicated in the construction of (il)legal subjects. In considering state visual practices in relation to moments of legal intervention, it is also possible to summon both law and visual practices as interdependent and interrelated sites of meaning. Approaching these visual practices as entwined with (but not bound by) law means also that such practices may operate equally as the vessel for the dissemination of legal categorization and as that which draws boundaries around which such categorization may proceed. State visual practices and law thus work in tandem, even when seeming to diverge, to vindicate certain legal categories, exclusion from and inclusion within the normative bounds of law, and to normalize who can become a recognizable legal subject. There is an uncanny synergy, then, between the visual practices of the state and the ways in which detainees, as legally anomalous prisoners in the first days of the “war on terror campaign”, as disappeared bodies, and as resurrected, but abandoned

figures, can be understood in relation to law. This uncanniness is to be found in the ways in which the cooperation of these forces finds purchase through both presence and absence, through both the contours of bodies and their ghostly remnants.

In the next chapter, I delve further into strangeness, as I examine the role state visual practices play in hunger-strikes and force-feeding in Guantanamo. I argue that the strike melds body to subject in particularly dangerous and visceral ways. The forms of discipline the hunger-striking body is met with are therefore aimed at rupturing this fusion. State visual practices operate alongside technologies of torture such as force-feeding, and become a key means through which the state attempts to violently fracture both the starving body and what it is that is thought to embody.

Chapter 5: Picturing Hunger, Framing Violence: Rationalizing State Violence Through Detainee Hunger-Strikes

To Attorney David Remes who dedicated his efforts to work on my dead case. The case that has been buried by its makers under the wreckage of freedom, justice, and the malicious and cursed politics.³⁶⁰
Adnan Latif, Guantánamo hunger-striker, 2011.

Introduction

Guantánamo Bay's detainees do not merely suffer the conditions of their confinement. They also resist. In a space bent on silencing and disappearing, they use their bodies to make legal, political, and ethical claims.³⁶¹ In doing so, they make clear their desire to not only be heard, but to be *seen*. The plea to be seen as both legal persons, and as suffering, violated bodies finds a useful outlet in and through the body, the contours of which, even as it is legally, politically, and physically silenced and erased, may still bear witness to the conditions in which it is bound. And so detainees throw cocktails of spit, feces, and urine at guards.³⁶² They carve into their arms and use their blood to write on the walls of

³⁶⁰ Andy Worthington, "Guantanamo Is 'A Piece of Hell That Kills Everything': A Bleak New Year Message from Yemeni Prisoner Adnan Farhan Abdul Latif", Andy Worthington, January 1, 2011, accessed March 21, 2019, <http://www.andyworthington.co.uk/2011/01/01/guantanamo-is-a-piece-of-hell-that-kills-everything-a-bleak-new-year-message-from-yemeni-prisoner-adnan-farhan-abdul-latif/>.

³⁶¹ Detainees also make use of other forms of resistance. For example, they have produced a quite voluminous amount of written materials (given the camp's strict regulations), as seen in the many letters and transcribed interviews documented and shared publicly by their attorneys. Their voices are also made clear in their legal claims and petitions, while some detainees also turn to art, in the form of poetry and paintings, to tell their stories.

³⁶² Ahmad, "Resisting Guantánamo", 1755.

their cells.³⁶³ Sometimes, they kill themselves.³⁶⁴ The most constant mode of bodily resistance in Guantánamo occurs in the form of the hunger strike. Since 2002, detainees have taken part in near-constant strikes, where at times the number of participants has included close to two-thirds of the prisoner population. Military command has responded by framing the strikes as both tactics of war and necessitating medical, ethical, and legal interventions. In turn, they have also established a force-feeding regime at the camp, a process they, and the state, often refuse to refer to as such. Rather, force-feeding in this context becomes “enteral feeding”, “artificial feeding”, and “assisted feeding” for non-compliant detainees engaged in “non-religious fasts”.³⁶⁵ The use of these nomenclatures, rather than the term “force-feeding”, seems, on the one hand, a rather blatant attempt on the part of the state to remove itself from the violence that attaches to the notion of enforced feeding, and to the ethical and political considerations it conjures. On the other, these terms, as we will come to see, are themselves politically and ethically saturated; they also function to “discursively construct the practice of force-feeding as a legitimate and necessary intervention of care.”³⁶⁶

³⁶³ See Joseph Pugliese, “Reflective Indocility: Tariq Ba Odah’s Guantánamo Hunger Strike as a Corporeal Speech Act of Circumlocutionary Refusal”, *Law and Literature* 28, no. 2 (2016): 121. Pugliese recounts the case of detainee Mohammed al-Tumani, who cut his wrists and smeared his blood on the walls of his cell to write “country of injustice is America.”

³⁶⁴ Of the nine men who have died at Guantánamo, six are suspected of committing suicide. See “Guantánamo: Facts and Figures”, *Human Rights Watch*, March 30, 2017, accessed April 23, 2019, <https://www.hrw.org/video-photos/interactive/2017/03/30/guantanamo-facts-and-figures>

³⁶⁵ Cori Crider, “Gitmo hunger strikes are a cry for help. Why is the US fighting back with secret torture?” *The Guardian*, September 30, 2014, accessed April 23, 2019, <https://www.theguardian.com/commentisfree/2014/sep/30/gitmo-hunger-strikes-secret-force-feeding>.

³⁶⁶ Corinna Howland, “To Feed or Not to Feed: Violent State Care and the Contested Medicalization of Incarcerated Hunger-Strikers in Britain, Turkey and Guantánamo Bay”, *New Zealand Sociology* 28, no. 1 (2013): 107.

In Guantánamo, as in other penal spaces, hunger strikes can create the conditions for the radical resurgence of a certain kind of political subjectivity and humanity for those who have been systematically de-politicized and/or dehumanized. While it is possible to understand the strike as an extreme act of desperation, it can also be seen as a deliberate and measured form of resistance. This is not the only reading of the strike; as others have noted, it can also be understood as an expression of political or bodily agency³⁶⁷, or as a form of political and collective action, where it unfolds as “a rational path that follows some deliberation and is based on individual’s socialization and the political alternatives open to them.”³⁶⁸

Indeed, to understand the strike through the lens of resistance is to lose something of this sense of agency and deliberate decision-making. However, I choose to refer to the strike as such for two reasons: firstly, as we will see, this is the main (although not sole) prism through which hunger-striking detainees themselves understand their actions. It is necessary to take seriously not just their claims, but also the grounds from which they make them. Secondly, resistance implies a certain relation *to* the body, wherein this relation enfolds in such ways as to transform the body and its capacities into corporeal sites of struggle and opposition. In this way, resistance is capable also of speaking most poignantly to conditions at the camp, as well as to the visceral and embodied nature of the strikes. As I have argued, the body, in Guantánamo, is a battlefield. The forms of

³⁶⁷ See Banu Bargu, “The Silent Exception: Hunger-striking and Lip-Sewing”, *Law, Culture and the Humanities* 00, 0, 2017: 1-28.

³⁶⁸ Israel Waismel-Manor, “Striking Differences: Hunger Strikes in Israel and the USA”, *Social Movement Studies* 4, no. 3 (2005), 282.

incapacitation and detention used are routed through and acted upon the bodies of detainees in ways that are unique to the camp. In response to these conditions, detainees turn also to the body in order to both expose these violences, to wage a bodily resistance to them, and to reclaim what has been overtaken by them.

In this chapter, I argue that the hunger strike, as an act of resistance that centres the body in powerful and generative ways, functions in Guantánamo to surface bodies in particularly visceral ways. In the midst of the strike, the detainee, even as he is physically diminished, is encountered *as* violent, and as embodying particular forms of subjectivity that cannot be tolerated by state power. Under these conditions, and where “forms of corporeal incapacitation function as the mechanisms through which [both] protest and discipline register”³⁶⁹, force-feeding responses, and visual practices documenting their use, become technologies through which these troubling forms of embodiment are fractured. They also work to reiterate and disseminate official state narratives around the strike, force-feeding, and those who are engaged in starvation campaigns. This suggests that political logics and practices are, at least in part, produced and/or rationalized via visual apparatuses.

At the same time, in reading a set of images depicting both the strikes and state responses to them against competing narratives offered by detainees and their advocates, state officials, and other actors, it becomes clear that there is also something very strange about these specific visual practices. In other words, they work to make state force highly visible (through a visual archiving of the force-feeding process), while they also attempt to obscure it (through visual framings

³⁶⁹Michelle C. Velasquez-Potts, “Staging incapacitation: the corporeal politics of hunger striking”, *Women & Performance: a journal of feminist theory* 29, no. 1 (2019): 26.

which disappear detainees and transform the process of force-feeding into forms of medical and ethical “care”).

On the one hand, these seemingly contradictory images can be understood as manifesting two modes of normalization. As I have shown in Chapter 4, the legitimation of state violence in Guantánamo depends as much on visibilizing this violence as it does on erasing it. In the context of the hunger-strike and force-feeding responses, this need to both make visible and to obscure reaches new heights, making images of these practices particularly active, responsive, and generative. Working from this angle, I argue that these specific images work to intercede on behalf of the state to settle what counts *as* violence, *who* counts as violated, and the extent to which either certain kinds of violence or certain kinds of violated subjects/bodies can ever *be seen* at all. In this, however, images are contradictory and mutable; in being capable of both interceding on behalf of the state and exposing its violences, they also expose the uneven and complicated ways in which the state comes to terms with and understands its own practices.

And yet, there is still something odd about them. This sense of the bizarre, the unsettling feelings they conjure, is a result perhaps of the nature of the hunger-strike and force-feeding. Hunger, eating, feeding, nourishment – these are all daily and regular needs and occurrences, shared by everyone and in every context. Both the hunger-strike and force-feeding distort the everyday, morphing the quotidian into the peculiar, and casting images of these practices with a particular sense of horror. In Guantánamo, this distortion is repeated and amplified by the legal, political contortions that characterize the place, as well by the bodies of detainees, as they are made both monstrous and liminal. Indeed, binding together and operating at the center of these distortions is the body of

the detainee. Surfaced in intensely material and visceral ways by the hunger strike, a surfacing that is inflected by the already-excessively corporeality of the detainee as a male Muslim body, state visual practices transect with starving detainee bodies in order to work out the rationales and limits of its own violence. Taken together, these images create a bizarre tableau, in and through which detainee bodies are mapped by the inner workings of state violence.

I begin by foregrounding this chapter against a timeline of hunger strikes, force-feeding, and political and legal responses. Besides offering a framework for analysis, this timeline also centres and gives primacy to hunger-striking detainees. In tracing the ebb and flow of their resistance campaigns, it becomes possible to discern the various (and sometimes competing) motivations behind their choices. To give priority to the voices of detainees in this way is also to pay tribute to their acts of resistance, and to further highlight the specificities and potential meanings of both the strikes and the legal, political, and carceral conditions from which they emerged.

After addressing the important temporal aspects of the strike in the context of indefinite detention, I then focus on a reading of the hunger in Guantánamo Bay through a survey of theoretical approaches which reconsider what the strike's reliance upon the body conveys, both about starvation as an act of resistance and about the forms of state response it elicits. These (re)readings of the body's relation to the hunger strike share an important relation to processes of visibility and invisibility in the camp; in spectacularizing starvation through the wasting away of bodies, state violence is both made visible and seeks recompense for its exposure by refusing to acknowledge either the strikes or the

violence of its response, recasting it instead as a medical, legal, and ethical imperative.

In the third section of this chapter, I conceptualize force-feeding alongside the specific conditions that govern Guantánamo. In the context of the camp, this practice, and attempts to both rationalize and downplay its effects, takes on a particular relation to state violence, torture, and the abstraction of bodies into sites for the performance of both sovereign power and “violent care”. This means also that force-feeding in Guantánamo demands both a certain degree of visibility and invisibility, a visual double bind that further implicates visual practices as a central tool in the rationalization of state violence.

Turning to a discussion of the camp’s force-feeding regime, through an analysis of the *Dhiab v. Obama* case, I demonstrate the ways in which visual practices were bound up in the exercise and normalization of force-feeding, as legal battles were waged over the circulation of videos showing these practices. I end the chapter by examining two set of images that highlight the sometimes contradictory relationship between state violence and visual practices in Guantánamo, as the state set about crafting narratives of “care” against a visual background littered with the material detritus of violence and torture. I consider: how, in this relationship, do detainees become materialized as bodies through which these relations are played out? What forms of meanings and effects attach to these materializations, as they occur both through the visualization of violence and through processes of erasure, emptying out, and visual disassembly?

5.1 A History of Hunger in Guantánamo

I begin this section with a broad chronology of hunger strikes in Guantánamo. This timeline is not just functional; it also highlights various and competing narratives around both the strikes and efforts to contain them. It should be noted that this account is constrained by circumstances, as the parceling out and withholding of information by military command and state authorities means that it is impossible to offer a precise timeline of the strikes³⁷⁰, either in terms of the numbers of detainees who participated, the duration of the campaigns, or the exact scope and scale of responses to them. What is clear, however, is that hunger strikes have been a near constant feature of the camp since 2002.³⁷¹ A number of these have been mass strikes, with some involving hundreds of detainees at a time. Generally speaking, a “crucial commonality between ... hunger strikes is that their facts, meaning and interpretation are highly contested.”³⁷² The testimonies of former detainees (and their legal counsel) indicate that while the Guantánamo strikes may have differed in degree and effect, they were largely similar in kind and in aim. They were motivated by and sought to ameliorate the physical, legal, and political conditions of the detention

³⁷⁰ Much of the information about the strikes emerged piecemeal, from “internal government memoranda released in Freedom of Information Act litigation, client interviews by pro bono habeas counsel, and court records”, as well as from ex-detainees after they were released from the camp. See “The Guantánamo Prisoner Hunger Strikes & Protests: February 2002 – August 2005”, 3, and 6.

³⁷¹ The Centre for Constitutional Rights notes that “the U.S. Department of Defense continues to maintain strict control over the information released about its treatment of prisoners at Guantánamo. As a result, no public information identifies the precise date of the first hunger strike at the prison”. See The Centre for Constitutional Rights, “The Guantánamo Prisoner Hunger Strikes & Protests: February 2002 – August 2005, A Special Report by the Centre for Constitutional Rights”, 6, <https://ccrjustice.org/sites/default/files/assets/files/Final%20Hunger%20Strike%20Report%20Sept%202005.pdf>.

³⁷² Amanda Machin, “Hunger Power: the Embodied Protest of the political hunger strike”, *Interface* 8, no. 1 (2016): 161.

camp, including indefinite detention, detention without trial, inadequate shelter, inhumane treatment, and physical, psychological, and religious abuses. One list of demands put forth by detainees simply stated, “we need to see sunlight.”³⁷³

Lawyers and human rights advocates for detainees have stressed the hunger-strike as the one form of resistance left to those who have largely been legally and politically abandoned. In keeping, they condemn force-feeding as a violation of the rights of detainees and of international law, and as contrary to medical ethical standards³⁷⁴, while also drawing attention to the serious medical complications that can arise through its continued use. Lawyers for detainees also maintain that force-feeding methods are purposely done in such a way as to “make it as painful and difficult as possible.”³⁷⁵ Against these claims, the U.S. state made it clear that it would not allow the hunger-strikes to end in death. As camp commander General Michael Lehnert stated in 2002: “nobody is going to die.”³⁷⁶

³⁷³ Barbara Olshansky and Gitanjali Gutierrez, “The Guantánamo Prisoner Hunger Strikes & Protests: February 2002 – August 2005, A Special Report by the Centre for Constitutional Rights”, The Centre for Constitutional Rights, <https://ccrjustice.org/sites/default/files/assets/files/Final%20Hunger%20Strike%20Report%20Sept%202005.pdf>, 10.

³⁷⁴ See The Centre for Constitutional Rights, “The Guantánamo Prisoner Hunger Strikes & Protests: February 2002 – August 2005, A Special Report by the Centre for Constitutional Rights”, 6, <https://ccrjustice.org/sites/default/files/assets/files/Final%20Hunger%20Strike%20Report%20Sept%202005.pdf> and “Guantanamo force-feeding timeline”, *Reprieve*,

³⁷⁵ Tim Golden, “Tough Steps in Hunger Strike at Camp in Cuba”, *The New York Times*, February 9, 2006, accessed April 10, 2014, <http://www.nytimes.com/2006/02/09/politics/09gitmo.html?pagewanted=all>.

³⁷⁶ “Sweet Tea and Therapy for X-Ray Inmates”, *The Telegraph*, March 10, 2002, accessed June 10, 2019. <https://www.telegraph.co.uk/news/worldnews/northamerica/usa/1387308/Sweet-tea-and-therapy-for-X-Ray-inmates.html>.

*Living in a Dying Situation*³⁷⁷: *Hunger-Strikes and Force-feeding between 2002-2013*³⁷⁸

As detailed by former detainees, in 2002 the first prisoners to refuse food³⁷⁹ did so in reaction to the mistreatment of the Qur'an at the hands of military officers. In the accounts of former detainees Feroz Abbasi and Rhuheh Ahmed: "The first hunger strike in Camp X-Ray ... started specifically because an [officer] was alleged to have stamped on the Qur'an in another section."³⁸⁰ "I saw a guard ... search through the [Qur'an] and drop it on the floor. The detainee told him to pick it up ... the guard looked at [it] on the floor and said 'this' and then kicked it. Everyone started shouting and banging the doors ... On that day there was a hunger strike [that lasted] for three days."³⁸¹ The testimony of former detainee Yousef al-Shehri underscores how these religious abuses conflated with issues of rightlessness and injustice. He said:

After the first (hunger) strike, they gave us promises. They said we will respect you and your religion and we will give you your rights. They promised me I would be freed. They promised many detainees they would be released. We waited but they did not deliver. Instead, they

³⁷⁷This phrase is borrowed from detainee and hunger-striker Adnan Farhan, who, in a letter to his attorney, pleaded "my wish is to die ... We are living in a dying situation". See Tim Golden, "Guantánamo Detainees Stage Hunger Strike." *New York Times*, April 9, 2007, accessed May 21, 2019, <http://www.nytimes.com/2007/04/09/us/09hunger.html?pagewanted=all>.

³⁷⁸This time span is indicative of what information has been released by the government with regards to the strikes, and not the actual duration of the campaigns. While in 2013, the state announced it would no longer provide any details about hunger-strikes in Guantanamo, attorneys and testimonies of detainees suggest that they continue to this day.

³⁷⁹Guantanamo's "war on terror" prisoners were also not the first to make use of hunger-strikes, as Haitian refugees imprisoned in detention centers on the island also relied on this strategy to demand their release. See Guantanamo Public Memory Project, "Hunger Strike at the Haitian Camps", <https://gitmomemory.org/timeline/resisting-and-protesting-guantanamo/hunger-strike-at-haitian-camps/>.

³⁸⁰Olshansky and Gutierrez, "The Guantánamo Prisoner Hunger Strikes & Protests", 6.

³⁸¹Olshansky and Gutierrez, "The Guantánamo Prisoner Hunger Strikes & Protests", 6. These early protests ended after "an unidentified senior officer delivered an apology over the detention center's loudspeaker system". The CCR also notes that soon after, Guantánamo command instituted a policy prohibiting military personnel from handling the Qur'an except in emergencies.

disrespected us and our religion, they threw the Koran on the floor and stripped us naked.³⁸²

Accusations of religion-based abuses are also what directly preceded the first large-scale, mass hunger-strike in the camp. After a military officer allegedly “removed a homemade turban from a prisoner during his prayer”, this strike lasted over a two-month period and included 194 detainees. During this period, detainees expressed other reasons for the strike, while again decrying the injustice of indefinite detention, the lack of legal process or recourse, and harsh living conditions.³⁸³ This first mass strike also brought about the earliest documented use of force-feeding by the state³⁸⁴, as the fasts of detainees who persisted in their campaign for more than 60 days were brought to an end by means of “artificial feeding”. Despite the numbers of detainees involved, the military downplayed the extent of the campaign. Joint Task Force Guantánamo (JTF-GTMO) Public Affairs officer, Marine Major Steve Cox, stated that “[b]y no means is this an organized, concerted effort by the camp’s detainee population, but merely a demonstration of some of the detainees’ displeasure over the uncertainty of their future.”³⁸⁵

In 2005, the camp also saw protracted and mass hunger-strikes. Reports indicate that these included 200 participants³⁸⁶, which at the time amounted to a third of Guantánamo’s detainee population.³⁸⁷ Once again, detainees framed the

³⁸² Statement made Oct. 1 2005 in Supplemental Declaration by Julie Tarver, Esq., filed Oct. 13, 2005, *Al-Joudi et. Al. v. Bush*, Civ. 05-0301, at 6-7, italics added.

³⁸³ Olshansky and Gutierrez, “The Guantánamo Prisoner Hunger Strikes & Protests”, 6-7.

³⁸⁴ Banu Bargu, *Starve and Immolate: The Politics of Human Weapons* (New York: Columbia University Press, 2014), 11.

³⁸⁵ Olshansky and Gutierrez, “The Guantánamo Prisoner Hunger Strikes & Protests”, 7.

³⁸⁶ Olshansky and Gutierrez, “The Guantánamo Prisoner Hunger Strikes & Protests”, 11.

³⁸⁷ Bargu, *Starve and Immolate*, 11.

strikes as a demand for legal recognition and fair trial rights, in addition to the equal treatment of prisoners (some of whom occupied different sections of the camp where they were subjected to harsher treatment), and the end of ongoing abuses aimed at their religious beliefs and practices.³⁸⁸ During 2005, the timeline of mass strikes, as these campaigns broke out, were paused, and then were undertaken again, was shaped also by the various promises made and withdrawn with regards to bringing the camp in line with the rule of law and international legal standards – namely, the Geneva Conventions.³⁸⁹ The 2005 strikes also occurred against a backdrop coloured by the first legal struggles undertaken by detainees for *habeas* recognition and constitutional protections, as

³⁸⁸ The full list of demands reads as follows: (1) We need respect for our religion, including an end to the desecration of the Qur'an and religious discrimination; (2) We need fair trials with proper legal representation; (3) We need proper human food and clean water. We are not given adequate amounts of food and the food is often old and inedible. The water is frequently dirty and tastes contaminated; (4) We need to see sunlight, and not be forced to go months without seeing daylight; (5) We need to know why we are in Camp 5 for so long, in some cases for over a year. What have the Camp 5 detainees done to be treated so much worse than the other detainees? (6) We need basic human rights like everyone else in the world – including real, effective medical treatment; (7) We need to be able to contact our families, and write to them and receive letters. Some prisoners have not received any of the letters sent by their families, their families have not received any of the prisoners' recent letters, and this is a widespread problem across the camp; (8) We need the "level system" of the various Camps and privilege levels to be abandoned and everyone treated equally; and (9) We need a neutral body to observe the situation and report publicly about the conditions at Guantánamo.

See Olshansky and Gutierrez, "The Guantánamo Prisoner Hunger Strikes & Protests", 10.

³⁸⁹ For instance, at one point detainees paused the strike when a grievance committee for prisoners was established and promises were made that the camp would be brought into compliance with the Geneva Conventions. When these promises were reneged upon, the strike commenced once again. See Bargu, *Starve and Immolate*, 11. In 2005, military policy dictated that detainees were to be considered as engaged in "voluntary fasting" if they missed nine consecutive meals, after which time they would be observed by medical professionals, as would their body mass indexes, weight loss, and overall physical condition. At the point where detainee's weight "drop[ped] too much, doctors [would] speak to the individual and offer supplemental nutrition, first intravenously and then through a nasogastric tube". See Kathleen Rehm "GTMO feedings humane, within medical care standards", *The Wire* (JTF-GTMO), December 2005, <http://www.jtfgtmo.southcom.mil/wire/wire/WirePDF/v6/TheWire-v6-i036-9DEC2005.pdf>. In 2009, an SOP document differentiated between this voluntary fasting and a hunger strike by noting that "a hunger striker is a detainee who communicates his intent to JTF-GTMO personnel to undergo a period of voluntary fasting as a form of protest or to demand attention from authorities". See "Voluntary and Voluntary Total Fasting and Re-feeding", SOP No: 001, http://humanrights.ucdavis.edu/projects/the-guantanamo-testimonials-project/testimonies/testimonies-of-standard-operating-procedures/hunger_strike_sop.pdf.

detailed in Chapter 4. In some ways, the struggle for legal recognition – to be seen and heard by the courts – is mirrored by what the hunger-strikers’ suffering body says: “It says ... that it cannot be heard, that it cannot properly appear”, and that through starvation, it “can turn the body into a voice”³⁹⁰ that can be perceived, legally and otherwise. The strike as a struggle for legal recognition is emphasised by the Centre for Constitutional Rights, which notes that “in response to what they deemed the U.S. military’s defiance of the rule of law and the SCOTUS decision in *Rasul*, the prisoners’ protests become more serious, with the (2005) series of hunger strikes resulting in an unknown number of detainees slipping into comas.”³⁹¹

Historically, however, the U.S. courts have balanced the rights of prison inmates to bodily autonomy with maintaining order in carceral environments and the ethical integrity of medical professionals. In doing so, they have generally found that hunger-strikes are forms of suicide, and, as such, prison officials have a duty to intervene to preserve not just life, but also order within prison settings.³⁹² This means that the courts have traditionally taken a very “permissive attitude” when it comes to force-feeding in prisons, while framing starvation campaigns as disruptive acts that require a return to penal order.³⁹³

³⁹⁰ Michael P. Vicaro, “Hunger for voice: Transformative Argumentation in the 2005 Guantanamo Bay Hunger Strike”, *Argumentation and Advocacy* 51, no.3 (2015): 174.

³⁹¹ Olshansky and Gutierrez, “The Guantánamo Prisoner Hunger Strikes & Protests”, 3.

³⁹² Kristine Huskey and Stephen N. Xenakis, “Hunger Strikes: Challenges to the Guantánamo Detainee Health Care Policy”, *Whittier Law Review* 30, no. 783 (2009): 800. See also Naoki Kanaboshi, “Prison Inmates’ Right to Hunger Strikes: Its Use and Its Limits Under the U.S. Constitution”, *Criminal Justice Review* 1, no. 19 (2014): 121-139.

³⁹³ David Ingram, Jane Sutton, “Analysis: In force-feeding detainees, Obama has courts on his side”, *Reuters*, April 26, 2013, accessed May 2, 2019, <https://www.reuters.com/article/us-usa-guantanamo-forced-feeding/analysis-in-force-feeding-detainees-obama-has-courts-on-his-side-idUSBRE93P04N20130426?feedType=RSS&feedName=politicsNews>.

This is evident in cases brought before the courts on behalf of prisoners seeking legal injunctions against the use of force-feeding techniques, where the decisions of the courts have largely aligned with state perspectives.³⁹⁴

In December of 2005, *The Wire*, a weekly publication issued by the JTF-GTMO, detailed the military's perspective on "voluntary fasting" and "assisted feedings." Citing a "great desire to ensure [detainees'] health" and the "responsibility that every detainee on our watch is taken care of", the *Wire* article also emphasized the non-violent nature of the practice, with its use of "very soft and non-irritating" feeding tubes, as well as its compliance with the standards of medical practice. Feeding is also described as "not involuntary", and detainees are "generally cooperative with medical staff in that effort." More than this, it is even sometimes voluntary, as the article notes that, "in fact, some even insert their own feeding tubes."³⁹⁵ This description can be juxtaposed to accounts offered by detainees, through their legal counsel:

These large tubes - the thickness of a finger ... were viewed by the detainees as objects of torture³⁹⁶.... [R]iot guards forcibly removed [them] by placing a foot on one end of the tube and yanking the detainee's head back by his hair, causing the tube to be painfully ejected from the detainee's nose [G]uards [then] took [the] tubes from one detainee, and with no sanitization whatsoever, re-inserted it into the nose of a different detainee. When these tubes were re-inserted, the detainees could see the blood and stomach bile from other detainees remaining on the tubes.³⁹⁷

³⁹⁴ See *Fuentes v. Wagner*, 206 F.3d 335, 345 (3d Cir. 2000). In re: Grand Jury Subpoena John Doe v. United States, 150 F.3d 170 (2d Cir. 1998).

³⁹⁵ Kathleen Rehm "GTMO feedings humane, within medical care standards", *The Wire* (JTF-GTMO), December 2005, <http://www.jtfgtmo.southcom.mil/wire/wire/WirePDF/v6/TheWire-v6-i036-9DEC2005.pdf>.

³⁹⁶ This is a view shared by the United Nations Committee Against Torture, which in 2014 stated that "force-feeding of prisoners on hunger strike [at Guantanamo] constitutes ill-treatment in violation of the Convention". See Committee Against Torture, "Concluding Observations on the third to fifth periodic reports of United States of America", https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/USA/INT_CAT_COC_USA_18893_E.pdf.

³⁹⁷ Julia Tarver, Supplemental declaration of Julia Tarver in *Majid Abdulla al Joudi, et al, v. George Bush et al.*, Civil Action No. 05-301, United States District Court for the District of Columbia, 5-6.

Despite condemnations from the international medical community, which cited legal and medical conventions that prohibited medical personnel from being a party to or administering cruel, inhuman, or degrading procedures in all circumstances, including situations of armed conflict or civil strife³⁹⁸, a senior civilian physician in the Pentagon framed the practice as a matter of moral and ethical concern and as necessary in order to sustain the lives and health of detainees. In response to media inquiries, he stated: “there is a moral question. Do you allow a person to commit suicide? Or do you take steps to protect their health and preserve their life?”³⁹⁹

While describing the hunger strike as an act of suicide willfully obscures the political nature of the strike, it is also contrary to what detainees themselves stated clearly. As detainee Younous Chekkouri stated in reference to the strike: “It is just pain everywhere ...I don't want to die in Guantánamo.”⁴⁰⁰ Moreover, it

³⁹⁸ In issuing these condemnations, groups such as the International Committee of the Red Cross (ICRC) cited from international medical associations such as the World Medical Association (WMA). In the WMA’s “Declaration of Tokyo 1975”, the group prohibits medical doctor’s from “countenance[ing], condon[ing], or participat[ing] in torture or other forms of cruel, inhuman or degrading procedures”, irrespective of “whatever the offence of the victim of such procedures is suspected, accused or guilty, and whatever the victim’s beliefs or motives, and in all situations, including armed conflict and civil strife. Article 5 of the Tokyo Declaration also stipulates that prisoners on hunger strikes shall not be force-fed. These positions were reiterated by the WMA in 1991. See The World Medical Association, “WMA Declaration of Tokyo – Guidelines for Physicians Concerning Torture or Other Cruel, Inhuman and Degrading Treatment or Punishment in Relation to Detention and Imprisonment”, <https://www.wma.net/policies-post/wma-declaration-of-tokyo-guidelines-for-physicians-concerning-torture-and-other-cruel-inhuman-or-degrading-treatment-or-punishment-in-relation-to-detention-and-imprisonment/>, and “WMA Declaration of Malta on Hunger Strikers”, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>

³⁹⁹ George J. Annas, “Hunger Strikes at Guantánamo – Medical Ethics and Human Rights in a ‘Legal Black Hole’”, *New England Journal of Medicine* 355, no. 13 (2006): 1378.

⁴⁰⁰ Matt Sledge, “Guantanamo Detainee Cleared for Release Takes Part in Hunger Strike”, *Huffington Post*, May 05, 2013, accessed June 11, 2019, https://www.huffingtonpost.ca/2013/05/02/guantanamo-detainees-cleared_n_3188255.html. Comparing Chekkouri’s statement to Farhan’s highlights the fact that detainees had contradictory goals in mind when they undertook their hunger-strikes. It also suggests that the

is a notable descriptor given the fact that around this same time period, military command also described the hunger-strikes as “an Al Qaeda tactic used to elicit media attention and also to bring pressure on the U.S. government.”⁴⁰¹ This suggests that in painting the strikes as suicidal acts that required intervention, military command was concerned less with considerations of medicine or morality, and more so with stopping acts of supposed aggression. As I will detail, the use of the term “suicide” in reference to the detainees, also conjured very specific, and violent, imaginaries. Nonetheless, a State Department legal adviser argued in 2006 that “in the (Geneva) Convention (sic) [it] says torture is an activity specifically intended to cause severe medical pain or suffering”, noting further that “no one would accept that our doctors, by giving someone food and nourishment, are intending to inflict severe physical pain or suffering on them.”⁴⁰²

While force-feeding was largely successful in bringing about an end to hunger strikes during this time period⁴⁰³ – a success that can be attributed to the mere biological reality it produces, as it compels nourishment and thereby effectively halts the physical process and progress of starvation – part of the effectiveness of this strategy can also be attributed to the increasingly violent

difference between the desire to die and the desire to live may not be particularly clear when it comes to Guantanamo. In other words, the strike, occurring in the midst of the camp’s conditions and drawing detainees in close proximity to death, can also be understood as mirroring the liminal and death-like nature of the camp. Given this, Chekkouri’s desire to live emerges within and against the prospect of death that shapes the camp, while Farhan’s wish to die is also a reflection of the conditions he suffers.

⁴⁰¹ Tim Golden, “Tough Steps in Hunger Strike at Camp in Cuba”, *The New York Times*, February 9, 2006, accessed March 19, 2019, <http://www.nytimes.com/2006/02/09/politics/09gitmo.html?pagewanted=all>.

⁴⁰² Steven Donald Smith, “Guantanamo Detainees Being Held Legally, Official says”, *The Wire*, February 15, 2006.

⁴⁰³ Annas, “Hunger Strikes at Guantánamo”, 1377.

manner in which it was deployed.⁴⁰⁴ In 2006, military command began employing the use of an “emergency restraint chair”, described by its inventor as a “padded cell on wheels.”⁴⁰⁵ Detainees recount being dragged from their cells by “Forcible Cell Extraction” teams, forcibly placed in chairs, and strapped to six-point restraints with their hands, feet, head and torso immobilized⁴⁰⁶, while “a naso-gastric tube [was] [forced] up their nose and down their esophagus.”⁴⁰⁷ They were then left in the restraint chairs for several hours after force-feeding and/or placed in isolation cells where they were monitored to ensure that no vomiting took place.⁴⁰⁸

In 2006, three detainees committed suicide. Reports indicate that all three were at one point engaged in hunger-strikes, and that they had all been repeatedly subjected to force-feeding and the emergency restraint chair.⁴⁰⁹ One of the detainees who eventually committed suicide, Adnan Latif, described force-feeding as “like having a dagger shoved down your throat.”⁴¹⁰ Latif wrote, “I am being pushed towards death every moment. The way they deal with me proves

⁴⁰⁴ It is true also, as Michelle Velsquez-Potts argues, that while “force-feeding fends off the corporeal consequences of slow starvation, but it doesn’t necessarily stop a hunger strike. Indeed, forcibly feeding a liquid diet to a subject is not the same as that subject willingly pausing and/or terminating a strike to eat”. See Velsquez-Potts, “Staging incapacitation”, 26.

⁴⁰⁵ Annas, “Hunger Strikes at Guantanamo”, 1377.

⁴⁰⁶ Annas, “Hunger Strikes at Guantanamo”, 1377.

⁴⁰⁷ Annas, “American Vertigo”, 637.

⁴⁰⁸ This was a regular practice at the camp, and often resulted in detainees defecting on themselves and being left to sit in their waste for hours. See Clive Stafford Smith, Transcript of “Inside Gitmo”, *ABC Foreign Correspondent*, April 29, 2014, <https://www.abc.net.au/foreign/inside-gitmo/5419426>

⁴⁰⁹ See J. Marshall Beier and David Mutimer “Pathologizing Subjecthoods: Pop Culture, Habits of Thought, and the Unmaking of Resistance Politics at Guantanamo Bay”, *International Political Sociology* 8, no. 3 (2014): 316.

⁴¹⁰ Murtaza Hussain, “Chronicle of a Death Foretold”, *Al Jazeera*, September 22, 2012, accessed November 29, 2019, <https://www.aljazeera.com/indepth/opinion/2012/09/201291872137626701.html>.

they want to get rid of me but in a way that they cannot be accused of causing it.”⁴¹¹ Commander of Camp One, US Rear Admiral Harry Harris, described these suicides, like the hunger strikes themselves, as an act of war. According to Harris, they were “not [] act[s] of desperation, but ... of asymmetric warfare”, while the dead men had “no regard for life, not ours or their own.”⁴¹²

In the spring and summer of 2013, approximately 100 of 166 prisoners engaged in another starvation campaign, after detainees accused military officers of using excessive force when searching their cells,⁴¹³ and once again handling the Qur’an in a disrespectful manner.⁴¹⁴ Participants included Ariq Ba Awdah, whose lawyer reported that he had been on an uninterrupted strike (and subjected to force-feeding) since 2007. This campaign resulted in between 44-46 detainees being force-fed, “a number so high that the military had to send a back-up team of medical personnel to assist with the force-feedings of prisoners.”⁴¹⁵

⁴¹¹ Letter from Adnan Latif to Attorneys David Remes and Mark Falkoff (May 28, 2010), available at <https://www.documentcloud.org/documents/536275-adnan-latifs-may-28-2010-letter-to-attorneys.html>. At the time of his suicide, Latif had spent more than 10 years in Guantanamo, and was never formally charged with any crime. Andy Worthington, “Lawyers’ Statement on Adnan Latif, the Latest Prisoner to Die at Guantanamo”, *Close Guantanamo*, Sept. 14, 2012, <http://www.closeguantanamo.org/Articles/64-Lawyers-Statement-On-Adnan-Latif-the-Latest-Prisoner-to-Die-at-Guantanamo>.

⁴¹² BBC News, “Guantanamo Suicides an ‘Act of War.’” June 11 2006, <http://news.bbc.co.uk/2/hi/americas/5068606.stm>.

⁴¹³ Beier and Mutimer, “Pathologizing Subjecthoods”, 319.

⁴¹⁴ David Ingram, Jane Sutton, “Analysis: In force-feeding detainees, Obama has courts on his side”, *Reuters*, April 26, 2013, accessed May 13, 2019, <https://www.reuters.com/article/us-usa-guantanamo-forced-feeding/analysis-in-force-feeding-detainees-obama-has-courts-on-his-side> idUSBRE93P04N20130426?feedType=RSS&feedName=politicsNews. The military countered accusations of religious abuse with claims that detainees hid weapons in the spines of the Qur’an. See Cora Currier, “Hunger Strikes and Indefinite Detention: A Rundown on What’s Going on at Gitmo”, *ProPublica*, April 18, 2013, accessed May 13, 2019, <https://www.propublica.org/article/hunger-strikes-and-indefinite-detention-a-rundown-on-whats-going-on-at-gitmo>.

⁴¹⁵ Lauren Wilcox, “Bodies in Pain: Yasin Bey and the Force-Feeding of Hunger Strikers at Guantanamo Bay”, <http://thedisorderofthings.com/2013/07/30/bodies-in-pain-yasiin-bey-and-the-force-feeding-of-hunger-striker-at-guantanamo-bay/>. See also Kandida Purnell, “Body

The 2013 strikes, alongside these reports of force-feeding, drew national and international concern, and caused President Obama to reaffirm the state's position that force-feeding was a necessary tactic in order to ensure the health and lives of the detainees. He stated, "I don't want these individuals to die."⁴¹⁶ Despite this prospect, General Kelly, chief of the U.S. Southern Command, dubbed the 2013 campaign as "Hunger Strike Lite," noting that "they are all eating something", and that some detainees drank their nutritional supplements through a straw rather than receiving it via a feeding-tube.⁴¹⁷

2013's strikes were met with protracted public scrutiny.⁴¹⁸ This was likely due to suits before the U.S. District Courts that sought legal intervention in order to bring about an end to force-feeding⁴¹⁹, including one which involved detainees requesting that the regime pause during the month of Ramadan, a period of time when fasting is to be observed for religious purposes between sunrise and

Politics and Boundary Work: Nobodies on Hunger Strike at Guantanamo Bay (2013-2015)", *Alternatives: Global, Local, and Political* 39, no. 4 (2014): 276.

⁴¹⁶ Benjamin Wittes, "The President's Guantanamo comments", *Lawfare*, April 30, 2013, <https://www.lawfareblog.com/presidents-guantanamo-comments> accessed June 07, 2019.

Obama's declaration can be read as an attempt to avoid the very real and pressing problem that corpses present for the carceral state. See Ian Miller, *A History of Force Feeding: Hunger Strikes, Prisons and Medical Ethics, 1909-1974* (Basingstoke: Palgrave Macmillan, 2016). At the same time, it is striking that he speaks in the singular. The use of "I", as opposed to "we" suggests a certain political instability around the camp, an instability that demanded the bolstering work achieved by Obama's statement.

⁴¹⁷ Carol Rosenberg, "Southcom General has nothing to offer Guantanamo Hunger Strikers, *The Miami Herald*, June 4 2013, <https://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article3601634.html>, accessed July 2, 2019.

⁴¹⁸ Lauren Wilcox argues that comparably, strikes that occurred in 2013 onwards received far more attention than earlier ones. She notes that 2005's strikes, despite their record number of participants, went "virtually unnoticed in the media". Wilcox, "Bodies in Pain: Yasin Bey and the Force-Feeding of Hunger Strikers at Guantánamo Bay".

⁴¹⁹ See "Application for Preliminary Injunction against Force-feeding," *Belbacha, Hadjarab, Dihab, and Aamer v. Obama*, Civ. Nos. 04-2215 (RMC), 05-1457 (GK), 05-1504 (RMC), & 05-2349 (RMC) (D.D.C. June 30, 2013); "Petitioners' Reply to Respondents' Opposition to Petitioners' Application for Preliminary Injunction against Force-Feeding," *Belbacha, Hadjarab, Dihab, and Aamer v. Obama*, Civ. Nos. 04-2215 (RMC), 05-1457 (GK), 05-1504 (RMC), & 05-2349 (RMC) (D.D.C. July 4, 2013); Ramadan.

sunset. Lawyers for detainees argued that these compressed hours and the SOP governing force-feeding processes would mean that it would have to occur twice over a ten-hour period, would require “dozens of restraint chairs and hundreds of staff”, and would result in “a veritable force-feeding factory”. This did indeed occur, as the Court declined to issue an injunction, and dozens of additional medical personnel were flown into the camp to assist in an intensive nighttime feeding procedure during Ramadan.⁴²⁰ Heightened public scrutiny also occurred because for the first time, images were released documenting this procedure in Guantanamo.

While the fallout from this decision will be analyzed in a subsequent section of this chapter, it suffices at this point to note that in December of 2013, military command stopped releasing information to the media about the number of hunger strikers. In reference to the media blackout, Commander John Filostrate, director of public affairs for JTF- GTMO, stated that “it’s [the strikers’] desire to draw attention to themselves, and so we’re not going to help them do that”.⁴²¹ Moreover, it was found that information about the strikes served “no operational purpose and detracts from the more important issues, which are the welfare of detainees and the safety and security of our troops”.⁴²² Finally, and rather

⁴²⁰ Carol Rosenberg, “More Navy Medics Arrive at Guantanamo to Help Out on Forced Feedings,” *Miami Herald*, April 29, 2013, <http://www.miamiherald.com/news/nation-world/world/americas/Guantanamo/article1950820.html>

⁴²¹ Jason Leopold, “Guantánamo Now Calls Hunger Strikes ‘Long-Term Non-Religious Fasts’”, *Vice News*, March 11, 2014, <https://news.vice.com/article/guantanamo-now-calls-hunger-strikes-long-term-non-religious-fasts>. It is of note that in July of 2013, the *New England Journal of Medicine* published an editorial calling military medical personnel to refuse orders that violated medical and professional ethics. See George J. Annas, Sondra S. Crosby, and Leonard H. Glantz, “Guantanamo Bay: A Medical Ethics-Free Zone?”, *New England Journal of Medicine* 369 (2013): 101-103

⁴²² Associated Press. 2013. “Guantánamo Detainees’ Hunger Strikes Will No Longer Be Disclosed by U.S. Military.” *Washington Post*, December 4, 2013, accessed May 20, 2019, <https://www.washingtonpost.com/world/>

ironically, military command at the camp suggested that in refusing to share this information, they were in fact protecting the rights of detainees under Common Article 3 of the Geneva Conventions, which they defined as “includ[ing] protecting them from curiosity. By identifying them on a list [it] makes them a ‘public spectacle.’”⁴²³

While on the one hand the decision to withhold information (which continues until this day) demonstrates “the ease with which carceral violence is maintained”⁴²⁴ in Guantanamo, it should also be noted that this ban made official what had been the informal practices of military command and the DOD for years. Prior to 2013, they regularly refused to release information about the strikes or, in some cases, even acknowledge them at all. This is apparent in 2005, when the DOD initially refused to disclose any facts about the June/July strike, and it was only after the testimony of former detainees and detainees’ legal counsel that details about it were made public.

In early 2014, an updated Standard Operating Procedure (SOP) document, entitled “Medical Management of Detainees with Weight Loss” was obtained by news outlets through a Freedom of Information request. This “rebranding” of the hunger strikes, which occurred at the same time that officials stopped releasing

national-security/guantanamo-detainees-hunger-strikes-will-no-longer-be-disclosed-by-usmilitary/2013/12/04/f6b1aa96-5d24-11e3-bc56-c6ca94801fac_story.html.

⁴²³ Ben Armbruster, “The inside story of the hunger strike and force-feeding at Guantanamo”, *ThinkProgress*. May 30, 2013, <https://thinkprogress.org/the-inside-story-of-the-hunger-strike-and-force-feeding-at-guantanamo-f93708bfc89b/>, accessed June 12, 2019. Article 3 describes treatment for persons involved in “conflicts not of an international character” (as opposed to prisoners of war, which Article 4 addresses). This treatment includes avoiding any “outrages upon personal dignity, in particular, humiliating and degrading treatment”. See International Committee of the Red Cross (ICRC), *Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)*, August 12 1949, <https://www.refworld.org/docid/3ae6b36d2.html>, accessed June 14, 2019. Article 3, page 91.

⁴²⁴ Velasquez-Potts, “Staging incapacitation”, 28.

information about them, avoided using the term “hunger strike” at all, instead referring to it as “long-term non-religious fast” in order to differentiate between the strike and between the fasting undertaken during Ramadan, and also issued guidelines to manage subsequent “weight-loss.”⁴²⁵ During this time, an attorney representing a number of detainees estimated there were still approximately 30 men on strike, while op-eds published in the *New York Times* by detainees also detailed on-going strikes and both the continuation and increased violence of the force-feeding regime. These testimonies described how, while initially, naso-gastric tubes would be left in detainees for days at a time to reduce discomfort, military medical personnel began the practice of inserting and pulling out the tubes each “feeding” time (at least twice a day),⁴²⁶ causing sharp pain and frequent bleeding.⁴²⁷

Despite this, lawyers for the government continue to argue that the state “has a legitimate interest in providing life-saving nutritional and medical care in order to preserve the life and prevent suicidal acts of individuals in the government’s care”, and that it would be impossible to “stand by and watch as detainees starved themselves and their health declined.”⁴²⁸ This was a position that was eventually reiterated and affirmed by the courts. In 2014, U.S. District Judge Gladys Kessler decided the legality of the force-feeding regime at

⁴²⁵ Leopold, “Guantánamo Now Calls Hunger Strikes ‘Long-Term Non-Religious Fasts’

⁴²⁶ Atika Shubert, “Gitmo Hunger Striker: What more can they do to me?”, *CNN*, June 26, 2013, <http://www.cnn.com/2013/06/26/world/europe/uk-guantanamo-hunger-shaker-aamer/>

⁴²⁷ Tim Golden and Eric Schmitt, “Force-Feeding at Guantánamo is Now Acknowledged” *The New York Times*, February 22, 2006, <http://www.nytimes.com/2006/02/22/international/middleeast/22gitmo.html>.

⁴²⁸ Warren Richey, “Guantanamo hunger strike: Force-feedings won’t clash with Ramadan, US says”, *The Christian Science Monitor*, July 3, 2013, <http://www.csmonitor.com/USA/Justice/2013/0703/Guantanamo-hunger-strike-Force-feedings-won-t-clash-with-Ramadan-US-says-video>.

Guantánamo. Notwithstanding expert witnesses, including doctors and professors of medical ethics, who testified as to the torturous effects of force-feeding⁴²⁹, and in spite of previous findings by the court, the ultimate decision of the court allowed for the practice to continue.

In making her decision, Kessler stated the court was “faced with an anguishing ... choice: reissue another temporary restraining order despite the very real probability that Mr. Dhiab will die, because he has indicated a continuing desire to refuse to eat and/or drink liquids, or refuse to issue the TRO and allow the medical personnel on the scene to take the medical actions to keep Mr. Dhiab alive, but at the possible cost of great pain and suffering.”⁴³⁰ Finding that “the Court is in no position to make the complex medical decisions necessary to keep Mr. Dhiab alive,” and that, “thanks to the intransigence of the Department of Defense, Mr. Dhiab may well suffer unnecessary pain from certain enteral feeding practices and forcible cell extractions”, she nevertheless stated that “the Court simply cannot let Mr. Dhiab die.”⁴³¹ While such a grammatical formulation, wherein the Court is compelled to keep Dhiab alive, casts the law as a sort of ethical agent, it also, in eliding his agency in choosing to engage in acts that bring him towards the brink of death, establishes the grounds through which he is brought in ever-closer proximity to pain and suffering.

⁴²⁹ Spencer Ackerman, “Guantanamo’s use of olive oil in force-feedings ‘astonishing’, doctor tells courts”, *The Guardian*, October 07, 2014, <https://www.theguardian.com/us-news/2014/oct/07/guantanamo-olive-oil-force-feedings-astonishing-doctor-court>

⁴³⁰ United States District Court for the District of Columbia, *Abu Wa’el (Jihad) Dhiab Petitioner v Barack H. Obama, et al, Respondents, Civil Action No. 05-1457(GK)*.

⁴³¹ See United States District Court for the District of Columbia, *Abu Wa’el (Jihad) Dhiab Petitioner v Barack H. Obama, et al, Respondents, Civil Action No. 05-1457(GK)*.

Because of the ban on releasing exact figures pertaining to hunger-strikes in Guantanamo, little reliable information is available as to how many detainees remain on strike or are being force-fed. In 2018, in response to media questions about whether there were any hunger-strikers, a military official's response was: "Not that I'm aware of," though he added, "there's a couple that enteral feed occasionally."⁴³² With this, detainees become the agents and sources of their nourishment, enclosing both the strike and its responses to within the confines of detainee bodies.

5.2 Theorizing Hunger

There is no end in sight to our imprisonment. Denying ourselves food and
risking death every day is the choice we have made.⁴³³
Detainee Samir Naji al Hasan Moqbel, 2013

While the hunger strike has a long and storied history, it has a particular relevance as an enduring form of protest and resistance within prison settings.⁴³⁴ The well-documented hunger strikes of prisoners in Northern Ireland, Turkey, at Pelican Bay prison in California⁴³⁵, and in Guantánamo Bay can all be located on a

⁴³² David Welna, "On a Tense Press Tour of Guantánamo's Prison Complex, Signs of Expansion" *National Public Radio (NPR)*, February 20, 2018, <https://www.npr.org/sections/parallels/2018/02/20/587195912/on-a-tense-press-tour-of-guant-namos-prison-complex-signs-of-expansion>

⁴³³ Samir Naji al Hasan Moqbel, "Gitmo is Killing Me", *The New York Times*, April 14, 2013, <http://www.nytimes.com/2013/04/15/opinion/hunger-striking-at-guantanamo-bay.html>. Accessed June 09, 2019.

⁴³⁴ Machin, "Hunger Power: the Embodied Protest of the political hunger strike", 157

⁴³⁵ See Bargu, *Starve and Immolate: The Politics of Human Weapons*; Howland, "To Feed or Not to Feed: Violent State Care and the Contested Medicalization of Incarcerated Hunger-Strikers in Britain, Turkey and Guantánamo Bay"; Keramet Reiter, "The Pelican Bay hunger strike: resistance within the structural constraints of a US supermax prison", *South Atlantic Quarterly* 113, no. 3 (2014): 579-611.

continuum of such acts within these kinds of contemporary carceral settings. While the specific contexts from which these strikes emerge point to important differences between what occurs in domestic prisons and what occurs in wartime detention camps, there is overlap among the material and political circumstances that inform these campaigns, where for prisoners who are “deprived of the usual forms of protest and judicial safeguards, such as petitions or ... freedom of expression, [f]asting may become the only means of protesting against, or demanding attention from, the authorities.”⁴³⁶ This convergence can also be seen in the strikes’ effects, as individual states react to hunger striking campaigns within carceral settings through the deployment of both disciplinary and biopolitical modalities of control and management.

The bodily, and embodied, nature of the hunger strike also highlights how prisoners make deft use of the little that remains under their control in physical and temporal spaces given over to excessively punitive practices, solitary confinement, and indefinite detention: namely, what passes through their bodies by way of ingestion. Indeed, it is the ability to choose and to act amidst conditions that severely limit these possibilities, even if that choice and action ends in death, that makes the strike such an evocative and meaningful form of resistance. As a “dramatic and eloquent form of political expression”⁴³⁷, and a “technology deployed in the face of abjection”⁴³⁸, in which incarcerated bodies

⁴³⁶ Hernan Reyes, “Medical and Ethical Aspects of Hunger Strikes in Custody and the Issue of Torture”, www.icrc.org/Web/Eng/siteeng0.nsf/html/57JPZP (accessed August 02, 2019)

⁴³⁷ Allen Feldman, *Formations of Violence: The Narrative of the Body and Political Terror in Northern Ireland* (New York: University of Chicago Press, 1991), 219.

⁴³⁸ Falguni Sheth, “Unruliness without Rioting: Hunger Strikes in Contemporary Politics”, in *Active Intolerance: Michael Foucault, the Prisons Information Group, and the Future of Abolition*, eds. Andrew Dilts and Perry Surn, (Palgrave Macmillan: New York, 2016): 124. The hunger-strike as resistance in the face of abjection is also what brings Ewa Ziarek to counter Agamben’s account of

take “communicative action that [they] can still perform in service of [their] owner”,⁴³⁹ part of the strikes’ endurance may also be owed to the current socio-political moment, which has seen the proliferation of spaces given over to the temporal, legal, and political miasma that is indefinite or extra-legal detention.⁴⁴⁰

Indeed, that the process of starvation makes readily and viscerally apparent that a definite and finite end can and will occur is a particularly relevant aspect of the strike when considered in the context of indefinite confinement.⁴⁴¹ In other words, in relying on the vulnerability and mortality of the body amidst such conditions, hunger strikers not only highlight the obduracy of state power – they also create a new kind of temporalization, wherein these conditions cannot persist. This is also an especially potent potential because it offers a semblance of hope in the camp’s inexorable march towards nothingness. Some shift in circumstance is demanded by the pressing nature of starvation, whether this occurs as a result of the state responding to the demands of hunger-strikers, the forcible end of the strike at the hands of the state (which often draws public scrutiny and/or criticism of carceral conditions), or the death of hunger-strikers.

“bare life”, which offers little room for the consideration of the emancipatory possibilities of the strike. See Ewa Ziarek, “Bare Life on Strike: Notes on the Biopolitics of Race and Gender”, *South Atlantic Quarterly* 107, no. 1 (2008): 89-105.

⁴³⁹ Karin Andriolo, “The Twice-Killed: Imagining Protest Suicide”, *American Anthropologist* 108, no. 1 (2006): 100-113. For more on the hunger-strike as a kind of communicative action, see also Feldman, *Formations of Violence*, 232; Machin, “Hunger Power: the Embodied Protest of the political hunger strike”; Pugliese, “Reflective Indocility”, 121; and Lionel Wee, “The Hunger Strike as a Communicative Act: Intention without Responsibility”, *Journal of Linguistic Anthropology* 17, no. 1 (2007): 61-76.

⁴⁴⁰ This includes solitary confinement in penitentiaries, refugee camps, and immigration detention camps, as seen in hunger-strikes in the refugee camp in Calais France, the Australian-run immigration detention centre in Manu Island, and Pelican Bay prison in California.

⁴⁴¹ See Allan Feldman, who writes in his seminal work on the Irish prison strikes undertaken by IRA prisoners that the hunger-strike is a “corporeal protest against injustice” that “transcribes biological time into epochal time”. Feldman, *Formations of Violence*, 219, 225.

For Patrick Anderson, the hunger strike accrues a cumulative and dramatic temporality, as the diminishing body ironically builds towards “an ever-larger moment of resolution, imagined either as the accession to the expressed demands or as the actual (and ...metaphorical) death of the strikers...”⁴⁴² In rupturing the indefiniteness of their own detention and asserting biological, finite time into the temporality of Guantánamo Bay, hunger-striking detainees can thus be understood as morphing indefinite, suspended time into a pressing, immediate present and future.⁴⁴³ The strike itself thus proffers starvation (and possible death) as an actant that simultaneously breathes both life⁴⁴⁴ and time back into the camp, and which sutures the ruptures left behind by the temporal chasms opened in the wake of indefinite detention. Importantly, this morphing of time, space, and life – zones that conjure existential considerations – also relies distinctly upon the body, as not simply a vehicle for the expression of these transformations, but as embodied subjectivity in action.

The literature around hunger-striking is poignant, evocative, and deeply invested in considering the stakes around such an act of resistance. There is also, however, somewhat of a tendency to romanticize the strike as an ideal form of resistance. In other words, the self-directed nature of its violence renders the

⁴⁴² Patrick Anderson, “There Will be No Bobby Sands in Guantanamo Bay”, *PMLA* 124, no.5 (2009): 1733. See also Lisa Guenther, “The Biopolitics of Starvation in California Prisons”, *Society and Space Open Site*, accessed June 14, 2019, <http://societyandspace.com/material/commentaries/lisa-guenther-the-biopolitics-of-starvation-in-california-prisons/>.

⁴⁴³ Feldman, *Formations of Violence*, 219, 225.

⁴⁴⁴ I borrow this phrase from Sameena Mulla, who uses it in reference to the presence of law within the medical examination rooms where rape examinations are conducted. She argues that “the courtroom is present in the emergency room not simply as a space, but as an agency that structures the examination ...[and it] is but one of many actants breathing life into the form that suffering, healing, and justice may take”. See Sameena Mulla, *The Violence of Care: Rape Victims, Forensic Nurses, and Sexual Assault Intervention* (New York: NYU Press 2014), 16.

bodies making political and moral claims through the strikes as both vulnerable and non-threatening. It also frames attempts to bring about an end to hunger campaigns as particularly cruel, where bodies already suffering from the pains of starvation are made to endure further physical anguish and the agony that comes when agency is forcibly removed. These are, however, also difficulties that inhere in the strike itself, and not only to the literature. In seeking to avoid the fetishization of the hunger-strike, and of hunger-striking bodies, I focus on the hunger-strikes in Guantánamo in terms of their specificities, through which it is possible to discern a “complex set of determinations, [a] particular trajectory, distinct discourses, and ... divergent effects and reverberations.”⁴⁴⁵

Corporeal Wasting as Making a Claim to Life

In the remainder of this section, I focus on the continued salience of the strike as a form of political action that not only centers upon the body, but also re-centers it as embodied in distinct and meaningful ways. This re-centering, while capable of making the body more politically significant⁴⁴⁶, must also be read against the ways in which the “context, motive, [and] status ...of the [striker] conditions the meaning that their hunger is given.”⁴⁴⁷ In Guantánamo, the embodiment and political (re)calculation of the striking body that occurs as an effect of the starvation campaign coalesces with pre-figurations of the detainees as excessively material, violent, and volitional body/subjects. The

⁴⁴⁵ Bargu, *Starve and Immolate: The Politics of Human Weapons*, 13.

⁴⁴⁶ Machin, “Hunger Power: the Embodied Protest of the political hunger strike”, 159. Machin argues that this political significance lies in the ability of the hunger striking body to communicate, make claims to a collective identity, and disrupt.

⁴⁴⁷ Machin, “Hunger Power: the Embodied Protest of the political hunger strike”, 161.

hunger strike can thus be read as working to further cleave together materiality and subjectivity in the figure of the detainee. This raises questions around how hunger is mapped on to and expressed through such a figure and, within the context of Guantánamo, how this act of bodily resistance is responded to by the state.

The claim that the hunger-strike, as a form of resistance, relies upon and makes special use of the body seems readily apparent.⁴⁴⁸ Indeed, the strike involves what could be deemed “the profoundly human”, revolving as it does around the “messy, unabstracted, and inescapably human” realities of the body.⁴⁴⁹ The starving resistant body is also, at the same time, a riotous body – expelling waste, spitting food, vomiting, and retching. As a form of corporeal challenge, the strike thus depends upon the reconfiguration of the body into a site of contestation, a transformation that both reveals and challenges the working out of state power. In particular, by sustaining hunger and displaying a willingness to die (or at least draw close to death) for their cause, the hunger-striking body exposes and resists the necropolitical power of the state, wherein sovereignty is exercised through the ability to decide who must die and who may live.⁴⁵⁰

⁴⁴⁸ For a number of scholars, the (re)assertion of the body in the hunger strike also speaks to and against what has been a de-centering of corporeality from political theory, as it displays “the body to be both political instrument and political actor”. See Amanda Machin, “Hunger Power: the Embodied Protest of the political hunger strike”, 157; Lauren B. Wilcox, *Bodies of Violence: Theorizing Embodied Subjects in International Relations* (New York: Oxford University Press 2015).

⁴⁴⁹ Ahmad, “Resisting Guantánamo,” 1763.

⁴⁵⁰ Achille Mbembe, “Necropolitics”, *Public Culture* 15, no. 1 (2003): 12. See also Ewa Ziarek, who argues that hunger strikes “repeat, usurp and expose in public the hidden irrational violence of the sovereign state”. Ziarek, “Bare Life on Strike: Notes on the Biopolitics of Race and Gender”, 97.

In spaces like Guantánamo, where the autonomy of detainees is made synchronous with the most basic autonomous functions of the body (ingesting or refusing food),⁴⁵¹ the hunger strike can also be read as transforming, or as returning to (human) form, abject subjects and bodies. Moreover, against conventional political theories, which posit “disembodied figures who ... transcend particularities of gender and ethnicity”,⁴⁵² the striking body, in its reliance on “a provocative display of politics simultaneously *by* the body and *on* the body”, points towards the embodied nature of both political realms and acts of political protest.⁴⁵³

A reading of the hunger strike as not just weaponizing bodies, but life itself, also points to the body as not simply an “empty, mediate vessel to achieve political ends”, nor as “an intermediary, [or] a means of staging a protest that advances certain specific demands.”⁴⁵⁴ Rather, it suggests that the body can play a key role in making existential claims *to* life. This “weaponization of life”, a concept coined by Banu Bargu in her study of Turkish prison hunger strikes, in its reliance upon bodily struggle and self-destruction in order to make political

⁴⁵¹ Ahmad, “Resisting Guantánamo,” 1759.

⁴⁵² Machin, “Hunger Power: the Embodied Protest of the political hunger strike”, 158.

⁴⁵³ Machin, “Hunger Power: the Embodied Protest of the political hunger strike”, 159-60. Machin notes that feminist theorists have emphasized how the “putative disembodied neutrality” of conventional political theories has occluded the role of particular types of bodies. Machin, “Hunger Power”, 160. See also Wendy Parkins, who in her study of feminist agency in the 19th century British suffragette movement, draws on the phenomenological body-subject work of Maurice Merleau-Ponty, who argues that the body, as one’s “anchorage in the world is the “expressive space” through which we are able to act meaningfully. Wendy Parkins, “Protesting like a Girl: Embodiment, Dissent and Feminist Agency”, *Feminist Theory* 1, no. 1 (2000): 59-78; Maurice Merleau-Ponty. *The Phenomenology of Perception*, translated by Colin Smith (London: Routledge, 1962), 144.

⁴⁵⁴ Bargu, *Starve and Immolate*, 16.

claims, emerges as a response to the pervasive politicization of life by the state.⁴⁵⁵ In this sense, materially self-destructive practices take form within a context of the bio-politicization of life itself, wherein it becomes the object and target of control and management, and where the state is imbued with a vitalist logic.

Constituted as such, life is forged into a weapon of struggle, and becomes both a site and form of resistance,⁴⁵⁶ while “self-destructive political actions are foremost a counter-sovereign act, [that] attempt to wrench the power of life and death from the state ...”⁴⁵⁷ In conditions that give rise to an ever-increasing extension of control over all aspects of life, which reaches its zenith in carceral or detention settings, the hunger strike thus functions as an act of resistance that seeks to break this control by weaponizing life itself. In this process, the hunger-strike also makes a claim *on* or a claim *to* life. Moreover, in making this intervention, a claim to a different kind of life is made through the body, as it provides “corporeal grid of intelligibility through which they make an alternative political landscape possible”.⁴⁵⁸ Therefore, the challenge to state authority that arises with the hunger-strike is to be found in the striker’s

⁴⁵⁵ Banu Bargu, “Hunger Strikes: When the Body Becomes a Battlefield, *The Funambulist* 7, 2016, <https://thefunambulist.net/articles/hunger-strikes-body-becomes-battlefield-banu-bargu>.

⁴⁵⁶ Bargu, *Starve and Immolate*, 25.

⁴⁵⁷ Bargu, “Hunger Strikes: When the Body Becomes a Battlefield”.

It is important to note that while, following Foucault, Bargu acknowledges the biopolitical aspects of rapacious state control, she departs from theorists whose analyses position biopower as the evolution of sovereign power. She suggests rather that there is a “contradictory amalgamation of sovereignty and biopolitics [which is] the distinguishing feature of contemporary power regimes”. This amalgamation, where state sovereignty uses “biopolitical tactics and incorporates them into the tissue of its own power”⁴⁵⁷, gives rise to what she refers to as “bio-sovereignty”. See Bargu, *Starve and Immolate*, 26. See also Lauren Wilcox, who argues that that Guantanamo Bay is an “example of the tensions between sovereign and biopolitical forms of the exercise of power in and through bodies”, and torture and force-feeding in the detention camp “point to the exercise of two distinct logics of power: sovereign power and biopower”. Wilcox, *Bodies of War*, 3 and 5.

⁴⁵⁸ Banu Bargu, “The Silent Exception: Hunger Striking and Lip-Sewing”, 7.

assertion of a kind of embodied counter-sovereignty “that emerges by way of radical self-transformation and in ethical relation to a new community that these practices call forth.”⁴⁵⁹

This assertion, delivered through and by the body and “in a political present dominated by values of self-interest, instrumental calculation, well-being, and security” makes strikers “appear curiously archaic and dangerously prefigurative of a different politics.”⁴⁶⁰ Bargu’s contributions are especially generative in the context of Guantánamo, and for considering the relation between body-as-weapon, the weaponization of life, and the hunger-striking detainees as laying claim to a different conception of life, separate and distinct from state authority. In this sense, the hunger-striker does not only embody an anti-state subjectivity⁴⁶¹ – they also, through their corporeality, offer an alternative, embodied, subjectivity.

While this allows for a more complex framing of the agency ascribed to hunger-striking detainees, it should be noted that any such notion proceeds on perilous ground. In other words, to ascribe to detainees an agency, or subjectivity, that embodies alternative relations to life (or death) is to come dangerously close to aligning “with those who imprisoned them without due process and who therefore had a stake in casting them as oppositional subjects.”⁴⁶² This same caution should be applied when considering what the “stakes” of death are for detainees. Do Muslim detainees hold a different

⁴⁵⁹ Bargu, “The Silent Exception”, 28

⁴⁶⁰ Bargu, *Starve and Immolate*, xiixii.

⁴⁶¹ Howland, “To Feed or Not to Feed”, 109.

⁴⁶² Beier and Mutimer, “Pathologizing Subjecthoods”, 318

understanding of what it means to exercise a will to die because of their religion, and if so, should that make us think differently about the strike and the strikers? The answer to these questions are both yes and no. On the one hand, it is entirely true that in the Islamic tradition, suicide is verboten, even under the most extreme of circumstances. For Muslim subjects who nevertheless choose to do so, it can be taken as indication of how dire their conditions are, and of the extent to which the camp works to distort both life and death. On the other, I am wary in making such a claim, not because it is not relevant or even true, but because to argue that starving Muslim bodies hold a different, more desperate relation to death, is to implicitly suggest that they also hold a different value on life. It is also to reiterate a reading of the Muslim body as one that particularly and materially bound to religion and ideology. This is not to suggest that such entanglements do not happen; rather, it is to point to, as the previous chapters of this dissertation have established, the ways in which this enmeshment is mediated by an array of forces that read male Muslim bodies as particularly perilous, even as they are in the midst of death fasts. The point, then, in making this intervention is not to state that the hunger strike is necessarily a practice of oppositional subjectivities, but only that it can be encountered as such,⁴⁶³ especially when it is undertaken by certain bodies and within certain contexts.

Following this, positing self-starvation as not a politics of death, but a politics of life, raises certain questions when considered against bodies and subjects routinely encountered as engaged in warfare. For bodies read as uniquely and persistently violent, as the male Muslim body is, hunger is an

⁴⁶³Beier and Mutimer, "Pathologizing Subjecthoods", 318

especially evocative tool of resistance. While it can function to make even starker the division between power and powerlessness in the manner in which it contests state authority by, quite literally, shrinking the available expanse of flesh onto which state violence may be enacted, it also makes a plea to the *incapacity* of bodies regularly rendered as spectacularly violent.

Hunger works to re-inscribe, or re-embody, detainees not only as politically meaningful bodies, but also as vulnerable bodies, bodies that are all-too human, and as physically removed from the violence that is thought to attach to them. The weakness, pain, and anguish that accompanies self-starvation is thus more than a political ploy for sympathy and less than an overt act of (asymmetrical) warfare. For Muslim detainees in Guantánamo, such bodily frailty and incapacity can also be read as an embodied disavowal of danger, of threat, and of the very logics which conspire to confine them to the camp. In this sense, whereas the self-directed violence of the hunger strike is often understood as turning the body into a weapon aimed against the state⁴⁶⁴, in the camp this weaponization can be understood as hinging on the willful personification of fragility and non-violence. It is a double-edged weaponization, one end blunt and the other elegiac: it may be wielded by the striker to harm the state by exposing the extent of its injustices⁴⁶⁵, while it may also re-figure the excessively

⁴⁶⁴ Feldman, *Formations of Violence*, 179.

⁴⁶⁵ See Feldman, who argues that the IRA hunger-strikes were an act of self-directed violence that “interiorised the Other, neutralised its potency, enclosed its defiling power and stored it in the corpse of the hunger striker for use by his support community”. Feldman, *Formations of Violence*, 237. See also Machin, who argues that the hunger-striking campaigns of IRA prisoners, anti-apartheid prisoners, and British suffragettes “took the power of the prison and the state and inverted it onto themselves, undermining the dominant order”. Machin, 175

material and violently volitional detainee as a physically diminished and incapable subject/body.

I recall here my conceptualization of the male Muslim body as hypercorporeal – as “already in excess”⁴⁶⁶ of itself – wherein the corporeal confines of the body cannot contain – in fact, cannot help but betray – its violent intent. In this sense, body and intent are bound together in reflexive ways, each requiring and demanding the use of the other. Hunger, then, in quite literally weakening the body, weakens also this bond, diminishing not just the physical bodies of detainees, but also the threat that resides in and finds purchase through them. Moreover, the paradoxical nature of the strike’s self-violence, where “violence inflicted on the self ... acts by refusing to act [and] collapses clear distinctions between passivity and activity, actuality and potentiality, victim and enemy”,⁴⁶⁷ functions to materially reconfigure these very categories, alongside detainees’ relation to them.

Using this framing, in the next section I ask: how can we understand the configuration of the strike as re-centering bodies in such ways as to make claims to life, against the violence of force-feeding in Guantánamo? I argue that the prospect of hunger as a politics of life operates alongside the apprehension of oppositional, violent bodies that are unveiled and surfaced in the wastage of starving detainees. Through these relations, the camp’s force-feeding processes becomes a form of “violent care”, while state visual practices intervene to settle both the limits and parameters of such care.

⁴⁶⁶ Pugliese, “Biotypologies of Terrorism”, 54.

⁴⁶⁷ Ziarek, “Bare Life on Strike”, 99.

5.3 Sovereign Power, Violent Care, and Guantanamo's (In)Visible Force-feeding Regime

I haven't tasted food for over six years. The feeding tube has been introduced into my nose and snaked into my stomach thousands and thousands of times.⁴⁶⁸

Tariq Ba Awdah, Guantanamo Bay Detainee, 2013

They have decided to leave us to waste away and die ... I am slowly slipping away and no one notices.⁴⁶⁹

Khalid Qasim, Guantánamo Bay Detainee, 2017

Force-feeding in carceral environments can be theorized through several lenses, the effects of which are apparent in the competing narratives offered by various actors around this process. As detailed in section 1 of this chapter, detainees, lawyers, and medical-ethical groups criticize the practice using rights-based discourses. They also approach it through the lens of autonomy and bodily integrity, wherein the non-consensual nature of force-feeding is understood both as a violation of these fundamental rights, and/or as an act of torture. From the state's perspective, the practice is often discursively decoupled from any notion of force or violence: it is framed as not entirely non-consensual, and as a function of the medico-ethical responsibility of the state to protect and ensure life. It is also enacted as a regime, unfolding daily in the camp, according to governing

⁴⁶⁸ Carol Rosenberg, "Some force-fed captives are cleared for release", *Miami Herald*, April 26, 2013, accessed June 09, 2019, <https://www.miamiherald.com/news/nationworld/world/americas/guantanamo/article1950744.html>.

⁴⁶⁹ David Smith, "Guantanamo hunger striker accuses US officials of letting him 'waste away'", *The Guardian*, October 13, 2017, accessed March 11, 2019, <https://www.theguardian.com/us-news/2017/oct/13/guantanamo-bay-khalid-qasim-hunger-strike>.

rules and procedures, and subject to its own internal standards. From the state's perspective, force-feeding therefore proceeds in quite an orderly fashion.

In this section, I focus on force-feeding as an expression of sovereign power enacted on and through the body, as a practice that further reveals the stark reality of indefinite detention and confinement, and as a form of medical and ethical "care". In "making live", the state authorizes its own command over life and death and the rationalization and legitimation of its life-sustaining powers; it also centers the body as the political and material battlefield "upon and for which" wars of "life against death, protection against harm, forced nourishment against willed starvation" are waged.⁴⁷⁰ By invading not only the starving, suffering, but also resisting bodies of hunger-strikers with feeding tubes, and in framing this act as one which is borne out of concern for the sanctity of life, the force-feeding regime also disrupts and displaces the politics of life made possible by the strikes, and replaces it with a liminal, interstitial, and indefinitely detained approximation of "life". In the process, the state discursively constructs the force-feeding regime as visible, while simultaneously obscuring its violences through the language of care. This (in)visible sleight of hand is also achieved via the production, dissemination, and censoring of visual material documenting this process, suggesting that visual practices in Guantánamo meld with and shape strategies of violent care, containment, and discipline in the camp.

Force-feeding within carceral environments is a technology well-suited to the expression and aims of state sovereignty. The material reality of the force-

⁴⁷⁰ Bargu, "Hunger Strikes: When the Body Becomes a Battlefield."

feeding tube, forcibly manipulated down the hunger-strikers' throat and into their stomachs, makes *interior*, both physically and mentally, exteriorized state control.⁴⁷¹ While force-feeding can be seen as stripping the act itself of its political core⁴⁷², this divestment occurs, in part, because force-feeding forestalls a foreseeable outcome of a starvation campaign – a politically saturated death⁴⁷³ wherein the body is sacrificed in resistance to this control. Moreover, the forcible insertion at the hands of the state and into the bodies of hunger-strikers relies upon pain as “a constituent element ... of the penalty” that hunger-strikers must endure.⁴⁷⁴ In other words, the pain that accompanies force-feeding is no accident, nor is it an unfortunate medical side-effect of necessary treatment. Rather, it is a pain that drives home “the long arm of the state”,⁴⁷⁵ and its ability to both govern life and death, and to extend into and exceed corporeal boundaries. The suffering that accompanies force-feeding thus recompenses the blow to the bio- and necropolitical⁴⁷⁶ functions of the state that the hunger strike delivers, while also reasserting the necropolitical as the limit of state sovereignty, exercised through decisions of who must die and who may live.⁴⁷⁷ Within this necropolitics of enforced nourishment, “death is not an option, but the body, mind and its

⁴⁷¹ Howland, “To Feed or Not to Feed”, 110. Italics added

⁴⁷² Beier and Mutimer, “Pathologizing Subjecthoods”, 321.

⁴⁷³ Howland, “To Feed or not to Feed”, 109. I note here, once again, that it is not clear that a “politically saturated death” was the aim of all hunger-strikers. However, because of the nature of the carceral hunger-strike, who embarks upon them, and given the context in which they occur, it is likely that deaths that occur as a result of these campaigns are read in such ways.

⁴⁷⁴ Howland, “To Feed or Not to Feed”, 110.

⁴⁷⁵ Howland, “To Feed or Not to Feed”, 110.

⁴⁷⁶ See Velasquez-Potts, “Staging incapacitation: the corporeal politics of hunger striking”.

⁴⁷⁷ Mbembe, “Necropolitics”, 12.

religion become sites of violence and constant transgression to mark their possession and submission to the imperial power.”⁴⁷⁸

While these arguments make clear the ways in which sovereign imperatives extinguish the possibility of force-feeding as solely a life-saving intervention, force-feeding as a disciplinary technique takes on a deeper dimension when considered in the context of indefinite detention. To that end, efforts to violently sustain life in such a carceral context imbue force-feeding with a kind of mimetic quality. In other words, in enforcing life not only through a violent removal of will, but also through a deliberate suspension of time, force-feeding mirrors and extends the liminal legal and political space within which detainees exist.⁴⁷⁹ In this sense, force-feeding is less a response to the urgency of death than the specter of starvation announces, and more so a drawing out of the death-politics that gives shape to the detention camp. In this temporal expansion, in which force-fed bodies are denied the most fundamental of freedoms, detainees become more firmly affixed to the political, legal, and physical spaces that materialize these non-freedoms.⁴⁸⁰

As detailed throughout this chapter, the notion of force-feeding as a form of “care” is belied by the testimonies of detainees, their lawyers, and legal and

⁴⁷⁸Yasmin Ibrahim and Anita Howarth, “Hunger strike and the force-feeding chair: Guantanamo Bay and corporeal surrender”, *Society and Space* 37, no.2 (2019): 305.

⁴⁷⁹Velasquez-Potts, “Staging incapacitation: the corporeal politics of hunger striking”, 36.

⁴⁸⁰Velasquez-Potts notes that “force-feeding also, ironically, extends the strike, drawing out the process of refusal of food and intervention strategies. This durational aspect is significant in that it reorients the idea that a hunger strike is an unmediated means to achieving one’s political goals in confinement. This in particular resonates with Guantánamo where the prolonged use of force-feeding at the camp intercedes upon the prisoner’s defiance, coercively extending the performance of the strike”. In this sense, “the feeding tube elongates the strike, stretching it out further and further, taking away the individual’s right to decide its end.” See Velasquez-Potts, “Staging incapacitation”, 36 and 28

medico-ethical groups. Nonetheless, the rhetoric of care, despite the violent manner in which it is delivered, may still work to direct counter-narratives of both the strike and of force-feeding. Force-feeding practices, in "ensur[ing] that the choice to fast unto death remain an impossibility", "masquerade the fostering of life as a politics of care".⁴⁸¹ This pretense is upheld in part through statements made by military command, defending the ethics of Guantanamo's medical staff: "the health and well-being of detainees is [the staff's] primary mission, and they take this duty as seriously as they take their duty to provide medical treatment to US service members or any other patient in their care."⁴⁸² This positing of care, which aligns detainees with "any other patients", occludes both the political legitimacy and point of the strike, as it purports to treat detainees like any other citizens despite the fact that they have been systematically excluded from the attendant rights and possibilities that accompany such belonging.

Howland's theorization of force-feeding as a form of "violent care"⁴⁸³ underscores how "care" and violence come to co-exist and mutually affirm the other in such contexts. She argues that violent techniques of control and incapacitation are "pursued by modern states that simultaneously rely on technologies of 'care and mastery', "where the preservation of the welfare and life of the prisoner is paradoxically pursued to the point of violence."⁴⁸⁴ The notion of "violent care" also points towards an understanding of these practices

⁴⁸¹ Velasquez-Potts, "Staging incapacitation: the corporeal politics of hunger striking", 28.

⁴⁸² Paul Harris, "Guantanamo Doctors Must Refuse to Force-Feed Hunger Strikers—Physicians", *The Guardian*, June 12, accessed April 02, 2019, <http://www.guardian.co.uk/world/2013/jun/12/guantanamo-bay-doctors-ethics-force-feeding>.

⁴⁸³ Howland, "To Feed or Not to Feed", 101.

⁴⁸⁴ Howland, "To Feed or Not to Feed", 107.

as mediated by a close relationship between law and medicine. In this relationship, medico-ethical, legal, and, in the case of Guantánamo, defensive prerogatives, coalesce into specific interventions, wherein “a complex of violent care emerges from the interpenetration of legal and medical practices.”⁴⁸⁵ In this conflation, “imaginaries of ... violence are configured as “medical-legal.”⁴⁸⁶

The concept of “violent care”, alongside its melded and melding abilities, allows for a richer understanding of how the state legitimates and/or erases its own violence through both legal and medical arguments that position the preservation of life⁴⁸⁷ as the most important consideration, even as this “preservation” depends upon exposing hunger strikers to extreme forms of physical violation. The perversion of care that pervades this preservation also allows for the manifestation of less overt, but equally troubling practices within the camp’s force-feeding regime. In 2013, news media sources reported that more “compliant” hunger strikers were given the privilege of watching television as they are being tube-fed, sitting in regular chairs, and “a choice of nutrient, or liquid meal: butter pecan, chocolate, vanilla or strawberry.”⁴⁸⁸

⁴⁸⁵ Sameena Mulla, *The Violence of Care*, 11.

⁴⁸⁶ Sameena Mulla, “There is No Place Like Home: The Body as the Scene of the Crime in Sexual Assault Intervention”, *Home Cultures* 5, no. 3 (2008): 301.

⁴⁸⁷ Howland, “To Feed or Not to Feed”, 109.

⁴⁸⁸ AFP, “US Judge Hears of Guantanamo Force-Feeding Techniques”, *The Nation*, October 10, 2014, <https://nation.com.pk/10-Oct-2014/us-judge-hears-of-gitmo-force-feeding-techniques>, accessed June 1, 2019. Detainees are also offered ibuprofen “if they express their discomfort”, and “are offered candies to suck on to assist with the swallowing of the feeding tube. It is unclear what marks the boundary between compliance and non-compliance, given the fact that non-compliance is the baseline from which the strike proceeds. Given also the fact that protracted strikes have resulted in detainees who weighed in at 74 pounds, it seems a distinction without a difference. See Center for Constitutional Rights, “Hunger Striker Whose Weight Dropped to 74 Pounds Released to Saudi Arabia”, April 16, 2016, accessed July 02, 2019, <https://ccrjustice.org/home/press-center/press-releases/hunger-striker-whose-weight-dropped-74-lbs-released-guant-namo-0>.

Inherent to the above conceptualizations of force-feeding are “complex interplay[s] of the visible and the invisible.”⁴⁸⁹ In puncturing both the bodies and claims of hunger strikers, the state relies on force-feeding as a form of political and material erasure, while also reasserting its own sovereign power over death and life. It also attempts to hide its own practices through discourses of “care”, an effort that also involved the release of images documenting the process of force-feeding in the detention camp. In 2013, and for the first time since the opening of the camp, the Pentagon circulated to media outlets images that captured feeding tubes, hospital beds, and cans of meal replacement liquids. This decision, perhaps meant to underscore force-feeding as a medico-ethical intervention, was seemingly a poorly thought-out one, as once again, images provided visual evidence for critics of the camp. The photographs, and others capturing restraint chairs and shackles indeed raised the ire of medical, legal, and human-rights organizations⁴⁹⁰ and renewed scrutiny around the camp.

However, the documentation of force-feeding, and the decision to disseminate these visual materials, also indicates the extent to which state violence shares a complex and dependent relationship with visual practices, wherein they work to mediate, limit, and extend the scope of its practices. In the following sub-section, I examine a legal case around force-feeding and its visual documentation to demonstrate further the ways in which these mediations are played out.

⁴⁸⁹ Ibrahim and Howarth, “Hunger strike and the force-feeding chair”, 295.

⁴⁹⁰ Ibrahim and Howarth, “Hunger strike and the force-feeding chair”, 301.

The Dhiab v Obama Case

In 2014, a hunger-striker by the name of Abu Wa'el Dhiab filed a lawsuit seeking an end to force-feeding and forced cell extractions.⁴⁹¹ Dhiab, who never faced charges and who, at that time, had been cleared to leave Guantánamo since 2009⁴⁹², described these practices as retributive punishments for persisting in his starvation campaigns.⁴⁹³ This case was preceded by a 2013 petition brought by Dhiab and other detainees to bring a halt to force-feeding. In hearing the case, Judge Kessler, the U.S. District Judge who would also come to hear Dhiab's 2014 petition, stated that while force-feeding was "a painful, humiliating process",⁴⁹⁴ she had no legal jurisdiction or authority to intervene in Guantánamo.⁴⁹⁵ In early 2014, a decision from the US Court of Appeals opened the door for litigation around the use of force-feeding, as it ruled that Federal District Courts did have jurisdiction in considering claims around the illegality of treatment of detainees

⁴⁹¹ This was not the first case to come before the courts involving hunger strikes at the camp. Others include those involving issues related to the treatment of hunger-strikers, and access to the strikers and their medical records by their legal counsel. See Kristine Huskey and Stephen N. Xenakis, *Hunger Strikes: Challenges to the Guantanamo Detainee Health Care Policy*, 30 *Whittier Law Review* 30 (2009): 783-807

⁴⁹² Cori Crider, "Gitmo hunger strikes are a cry for help. Why is the US fighting back with secret torture?" *The Guardian*, September 30, 2014, <https://www.theguardian.com/commentisfree/2014/sep/30/gitmo-hunger-strikes-secret-force-feeding>

⁴⁹³ Crider, "Gitmo hunger strikes are a cry for help."

⁴⁹⁴ Michael Doyle, "Judge: I can't stop Guantanamo force-feeding, but Obama can", *Miami Herald*, July 08, 2013, <https://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article1953093.html>. Judge Kessler also quoted from President Obama's own words, delivered during a speech only two months before, in which he stated: "look at the current situation, where we are force-feeding detainees who are holding a hunger strike. Is that who we are? Is that something that our founders foresaw? Is that the America we want to leave to our children? Our sense of justice is stronger than that".

⁴⁹⁵ Doyle, "Judge: I can't stop Guantanamo force-feeding, but Obama can."

in Guantánamo, and that detainees should be given a “meaningful opportunity” to challenge the legality of force-feeding.⁴⁹⁶

Against this legal backdrop, Judge Kessler initially answered Dhiab’s petition by issuing a temporary restraining order barring the government from force-feeding him. Kessler also directed the Obama administration to release approximately 28-34 videotapes showing forced feedings and other confinement measures taken against detainees⁴⁹⁷, after lawyers for Dhiab and media organizations had lobbied for the release of the videos, citing First Amendment rights.⁴⁹⁸ A lawyer for Dhiab described the videos as “11 bleak hours of filmed abuse”, going on to allege that “the DOD is so nervous about this footage going public that [they] have been forbidden even to discuss it with other security-cleared lawyers representing other clients on hunger strike. The Pentagon doesn’t want you to get anywhere close to these images.”⁴⁹⁹ State concern over what these videos contained, and the kinds of reactions they would produce, seemed to be well-grounded enough, given detainees’ descriptions of what occurred during force-feeding procedures. It also belied the state’s own narratives around force-feeding that cast it as a medico-ethical intervention.

⁴⁹⁶ United States Court of Appeals, District of Columbia Circuit, *Shaker Abdurraheem Aamer, Detainee, Camp Delta and Saeed Ahmed Siddique, Next Friend of Shaker Abdurraheem Aamer, Appellants v. Barack OBAMA, President of the United States of America, et al.*, Nos. 13–5223, 13–5276, 13–5224, 13–5225, February 11, 2014

⁴⁹⁷ See United States District Court for the District of Columbia, *Abu Wa’el (Jihad) Dhiab Petitioner v Barack H. Obama, et al, Respondents, Civil Action No. 05-1457(GK, Case 1:05-cv-014557-GK, Document 348, October 3, 2014.* The Justice Department would eventually come to admit to the existence of between 140-150 tapes showing forced cell extractions and forced feedings, although after Dhiab’s petition they stopped recording these practices. See A. Naomi Paik, “Representing the Disappeared Body: Videos of Force-Feeding at Guantanamo”, *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 9, no. 3 (2018): 32.

⁴⁹⁸ See “Memorandum of Points and Authorities in Support of Press Applicants’ Motion to Intervene and to Unseal Videotape Evidence,” *Dhiab v. Obama*.

⁴⁹⁹ Crider, “Gitmo hunger strikes are a cry for help.”

These worries are also likely what accelerated the process of release for Dhiab, as he was freed and repatriated to Uruguay (not his home country) in December of 2014, as the battle over the tapes still waged on in federal courts.⁵⁰⁰ In answer to the Justice Department's argument that national security could be compromised by the release of the tapes⁵⁰¹, Kessler subsequently ruled they could be released with modifications, such as blurring the faces of anyone other than Dhiab.⁵⁰² In 2017, a federal appeals court reversed Kessler's orders to release the force-feeding tapes, finding that videos depicting force-feeding were classified, that their release could harm national security, and that any First Amendment rights to view them were outweighed by concerns that they could endanger American troops and fuel global hostilities against the United States.⁵⁰³ The court agreed with previous testimony offered by Rear Admiral Richard W. Butler, who testified before Judge Kessler that the videos could encourage other detainees to provoke or resist guards, and would provide "terrorist elements with

⁵⁰⁰ Paik, "Representing the Disappeared Body", 433.

⁵⁰¹ Interestingly, the government also argued that the release of these tapes would violate Dhiab's rights under Article 13 of the Geneva Conventions, which protects prisoners of war from, among other things, "public curiosity". See "Memorandum Opinion," *Dhiab v. Obama*, Civ. No. 05-1457 (GK) (D.D.C. October 3, 2014); Geneva Convention III relative to the Treatment of Prisoners of War, August 12, 1949, <https://www.icrc.org/applic/ihl/ihl.nsf/7c4d08d9b287a42141256739003e636b/6fef854a3517b75ac125641e004a9e68>. According to Judge Kessler, "The Government's claim, if accepted, would turn the Third Geneva Convention on its head. Rather than a source of rights to humane treatment, Article 13 would become a means to shield from public view treatment that Mr. Dhiab (and undoubtedly other detainees) believe to be inhumane." See "Memorandum Opinion," *Dhiab v. Obama*.

⁵⁰² See United States District Court for the District of Columbia, *Abu Wa'el (Jihad) Dhiab Petitioner v Barack H. Obama, et al, Respondents, Civil Action No. 05-1457(GK, Case 1:05-cv-014557-GK, Document 348, October 3, 2014.*

⁵⁰³ See United States Court of Appeal for the District of Columbia Circuit No. 16-5011, *Jihad Dhiab, Detainee, Guantanamo Bay Naval Station and Shaker Aamer, as Next Friend of Jihad Dhiab, Appellees, v. Donald J. Trump, President of the United States et al., Appellants, Hearst Corporation, et al., Appellees, Appeals from the United States District Court for the District of Columbia (No. 1:05-cv001457)*

propaganda to fuel their continued global hostilities against the United States.”⁵⁰⁴

The appeal court judges also admonished the district court for dismissing Butler’s claims as speculative, stating “the district court had no day-today experience with the people being detained at Guantánamo and had no special insight into their mindset. Rear Admiral Butler did.”⁵⁰⁵

We may also take two important insights from the *Dhiab* case. Firstly, the case is remarkable in that it captures both the impulse of the state to document and archive its own violences, as well as its desire to erase and distance itself from them. In this way, visual practices operate as a form of discourse, as state power works to make certain things visible and invisible – or unseeable – and to produce both the visible and the invisible within particular fields of mediated vision.⁵⁰⁶ Moreover, the underlying push and pull of state power which produce these visual materials are also further articulated through them. The justifications offered by the court with regards to the censorship of these videotapes suggest also that state visual practices exist alongside and are embedded in overarching logics that shape the practice of force-feeding, as well as the hunger strikes themselves. This logic rests upon an apprehension of the detainee as a synthesized, purposeful, violent, and (im)material body, as well as on the assumption or outright are actively, willfully, and persistently engaged in warfare. This alleged warfare precedes the conditions of their confinement –

⁵⁰⁴Declaration of Rear Admiral Richard W. Butler, United States District Court for the District of Columbia, *Abu Wa’el (Jihad) Dhiab Petitioner v Barack H. Obama, et al, Respondents, Civil Action No. 05-1457(GK, Case 1:05-cv-014557-GK, Document 348, October 3, 2014.*

⁵⁰⁵See United States Court of Appeal for the District of Columbia Circuit No. 16-5011, *Jihad Dhiab, Detainee, Guantanamo Bay Naval Station and Shaker Aamer, as Next Friend of Jihad Dhiab, Appellees, v. Donald J. Trump, President of the United States et al., Appellants, Hearst Corporation, et al., Appellees, Appeals from the United States District Court for the District of Columbia (No. 1:05-cv001457), 19.*

⁵⁰⁶*Ibid.*, 143.

indeed, it is what brought them to Guantánamo in the first place. As I have argued throughout this dissertation, the presentiment of political, embodied violence, which worked to morph even the self-directed harm of suicide into an act of war, prefigured the detainees as certain kinds of bodies, prior to setting foot in the camp.

Under this prefiguration, even starvation and the physical diminishment that it involves are a function of this body-as-weapon/ weapon-as-body matrix. Indeed, it is the cooperation between and fusion of the immaterial and the material, both concealed and apparent, that is made visible in the hunger-striking body. Moreover, the fusion of the “mind and body of the prisoner ... in a unity of purpose” does not spring anew from the act of strike, but is thought to reside in the detainees themselves.⁵⁰⁷

Force-feeding regimes thus encounter the detainee body as a pervaded one, a body mapped by the physical signs of starvation and yet, in this deterioration, one that is nonetheless suffused with violence that is both self-perpetrated and outwardly directed. Detainees, as ideology given material shape, wherein their bodily capacities, including actions which bring about *incapacitation*, thus become transmuted into extensions of ideological will, while the force-feeding regime in Guantánamo works to preserve the authority of the state⁵⁰⁸ against this corporeal coupling of intent and effect, and against a weaponization of detainee bodies and lives that “seek[] to remake the world in

⁵⁰⁸ Pugliese, “Reflective Indocility”, 133-134

their own brutal images.”⁵⁰⁹ Given this, I argue that framing the hunger-strikes as self-directed violence, without attending to the “self” that is thought to direct that violence, reasserts the misstep of conventional political theories that cast the political realm with disembodied figures who transcend situatedness.⁵¹⁰ Moreover, the corrective offered by feminist theories that highlight the embodied nature of both political realms and acts of political protest can be accentuated by a consideration of what embodiment both generally, and specifically as it occurs in the midst of the hunger strike and force-feeding regime, entails for Guantánamo detainees.

5.4 Olive Oil or Juice? Paradoxes and Paroxysms of State Violence and Visual Practices

A captive does not possess any realistic means to send his messages to the world other than to strike. There is nothing greater to a human being than his religion and his freedom. And for it all dangers become small.⁵¹¹

Tariq Ba Odah, Guantánamo Detainee & Hunger-Striker from 2007-2016.

⁵⁰⁹ George W. Bush, "Address to a Joint Session of Congress and the American People," The White House website, September 20, 2001.

<http://www.whitehouse.gov/news/releases/2001/09/20010920-8.html>. The specificity of force-feeding as a technology of torture geared towards a particular understanding of the Muslim body in the War on Terror is further evinced by the fact that in CIA black sites, it was administered via rectal feedings. This practice draws upon “racialized and sexualized logics of othered subjects”, where rectal feedings are considered a particularly shameful and harmful form of physical and psychic violence for Muslim male prisoners. See Velasquez-Potts, “Staging incapacitation: the corporeal politics of hunger striking”, 107. The Senate report “documents the rectal feeding of Mustafa al Hawsawi before he was transferred to GB in 2006. The feedings were so severe that his lawyer sought medical intervention for him at the camp to treat a rectal prolapse that had caused bleeding and pain for over ten years. Velasquez-Potts, “Staging incapacitation: the corporeal politics of hunger striking”, 34.

⁵¹⁰ See Ewa Ziarek’s critique of Agamben’s notion of “bare life” as failing to take into account the diverse experiences of this form of “life”. Ziarek, “Bare Life on Strike”, 93.

⁵¹¹ “Tariq Ba Odah”, Centre for Constitutional Rights, February 6, 2015, accessed November 14, 2019, <https://ccrjustice.org/tariq-ba-odah>.

In this section, I analyze two sets of images taken from material released by the DOD and published directly through government websites that purport to show the practice of force-feeding. The first is a vignette-like set of images, produced and released by the Public Affairs Detachment in May 2013, during a hunger-strike at the camp that included more than two-thirds of detainees. The second contains still images taken from video produced during a media tour of the camp in March 2014, two months before the District Court handed down its decision to allow for force-feedings to continue in Guantánamo and while the battle over the release of videos depicting actual force-feedings procedures raged on in federal courts.

Both sets of images, and, in the case of the 2014 video, statements uttered by military officers, repeat and reiterate the state narrative of force-feeding as care, a framing that takes on a particular import given the timing of their release. They also, however, capture the paradoxical nature of this care, wherein it occurs not just in a heavily militarized and disciplinary space, but also through the use of violent techniques of incapacitation and feeding, and visual practices which capture images littered with the material traces of state violence. Unsurprisingly, detainees, the objects and targets of this “violent care”, are missing from within the frames of these images. They also, however, re-enter the frame as the bodies through which these paradoxes and paroxysms of state violence get worked out. I begin with a brief description of the images and video, and then turn to an analysis of these pieces of Guantánamo’s visual archive, with a focus on what, and who, is both left out of and made recognizable through their frames.

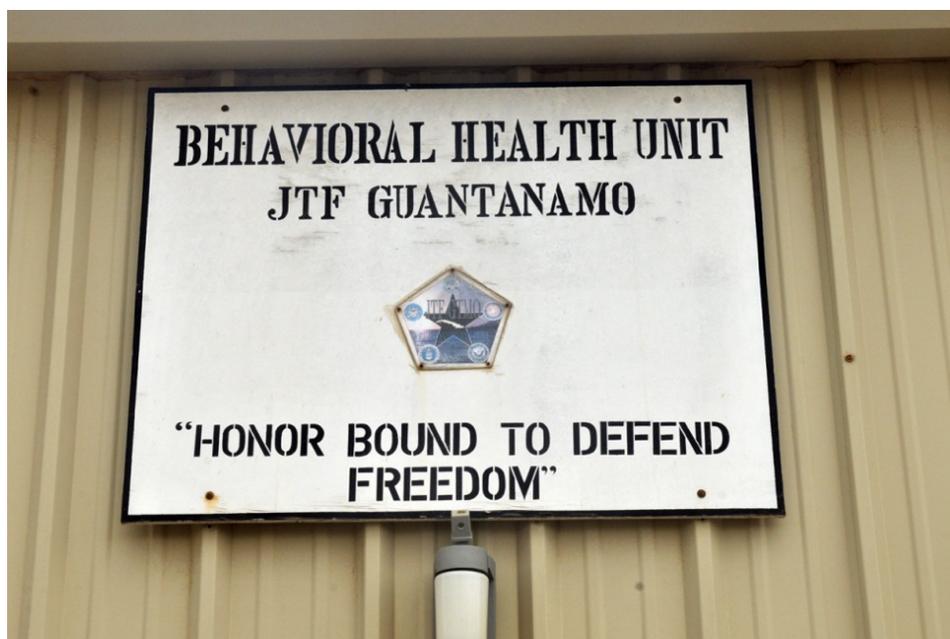


Figure 5.1 The Behavioral Health Unit where the detainees receive psychological medical care, Naval Station Guantanamo Bay, Cuba, April 10, 2013. Photo Credit: Army Sgt. Brian Godette.

The first set of images begins with a photograph of a sign that locates the viewer in space: it reads, “Behavioral Health Unit JTF Guantánamo” and underneath, “Honor Bound to Defend Freedom”. In the middle of these spatial and political contextualizations, the camp’s military insignia is emblazoned (Figure 5.1). The photographic series unfolds, alongside state-produced captions that accompany each image, to show the process of attempting to feed hunger-striking detainees.



Figure 5.2 Guard Force soldiers unload and wheel in food items delivered to Guantanamo Bay Detention Camp V to prepare for breakfast disbursement to detainees, Naval Station Guantanamo Bay, Cuba, April 10, 2013. Photo Credit: Army Sgt. Brian Godette.



Figure 5.3 Guard Force soldiers unload food items delivered to Guantanamo Bay Detention Camps V and VI to prepare for breakfast disbursement to detainees. Dated boxes and marked containers designate items and freshness, Naval Station Guantanamo Bay, Cuba, April 10, 2013. Photo Credit: Army Sgt. Brian Godette.



Figure 5.4 Guard Force soldiers unload food items delivered to Guantanamo Bay Detention Camps V and VI to prepare for breakfast disbursement to detainees. Fresh olives are part of standard food items delivered. April 10, 2013. Photo Credit: Army Sgt. Brian Godette.



Figure 5.5 Guard Force soldier discards breakfast delivered earlier in the morning which was refused by detainees. Naval Station Guantanamo Bay, Cuba, April 10, 2013. Photo Credit: Army Sgt. Brian Godette.



Figure 5.6 Guard Force soldier discards breakfast delivered earlier in the morning which was refused by detainees. Naval Station Guantanamo Bay, Cuba, April 10, 2013. Photo credit: Army Sgt. Brian Godette.

Proceeding in an almost frame-by-frame manner, the viewer is made to walk alongside faceless, anonymous military officers, as they cart boxes and containers of food (Figure 5.2), which, as the captions inform, are “dated for freshness”. (Figure 5.3). This includes, “fresh olives”, as captured in one close-up shot (Figure 5.4). The montage then moves on to show an officer standing next to a dumpster. Poised over a box containing what appears to be containers of food (Figure 5.5), he appears to throw a container in the dumpster (Figure 5.6). The caption tells the viewer what has unfolded: “soldiers trying to provide food to the detainees then throwing the food away after it is refused by the detainees”.

Somewhat abruptly switching scenes, the photo series then takes us into the Joint Medical Centre, where the next image is of the restraint chair used in the force-feeding procedures (Figure 5.7).



Figure 5.7 Feeding chair and internal nourishment preparation inside the Joint Medical Group where the detainees receive medical care, Naval Station Guantanamo Bay, Cuba, April 10, 2013. Photo Credit: Army Sgt. Brian Godette.



Figure 5.8 Feeding chair and internal nourishment preparation inside the Joint Medical Group where the detainees receive medical care, Naval Station Guantanamo Bay, Cuba, April 10, 2013. Photo Credit: Army Sgt. Brian Godette.

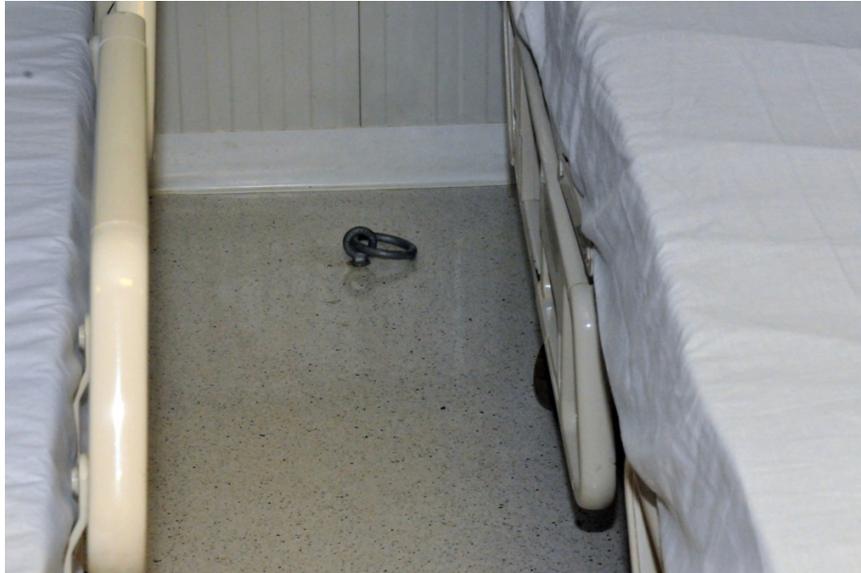


Figure 5.9 Shackles restraint point between hospital beds inside the Joint Medical Group where the detainees receive medical care, Naval Station Guantanamo Bay, Cuba, April 10, 2013. Photo Credit: Army Sgt. Brian Godette.

To the left of the chair, stands a tray containing what looks like medical paraphernalia. The subsequent image (Figure 5.8) offers a close-up view of what this equipment is: a yellow feeding-tube, unidentifiable items in a plastic bag, syringes, tape, and a bottle of nutritional supplement. While the chair and the tray dominate the frame, it is possible to see what appears to be a hospital bed, just to the left of the frame. The caption reads, “feeding chair and internal nourishment preparation inside the Joint Medical Group where the detainees receive medical care.” This set of images ends with a shot of a lone “shackles restraint point” between two hospital beds (Figure 5.9).

I turn now to a description of the 2014 video produced during a media tour of the camp, in which a senior medical officer details the SOPs governing force-feeding procedures.



Figure 5.10 Still capture taken from "How Guantanamo Prisoners on Hunger Strike Are Fed." Credit: Jose A. Iglesias/Miami Herald.

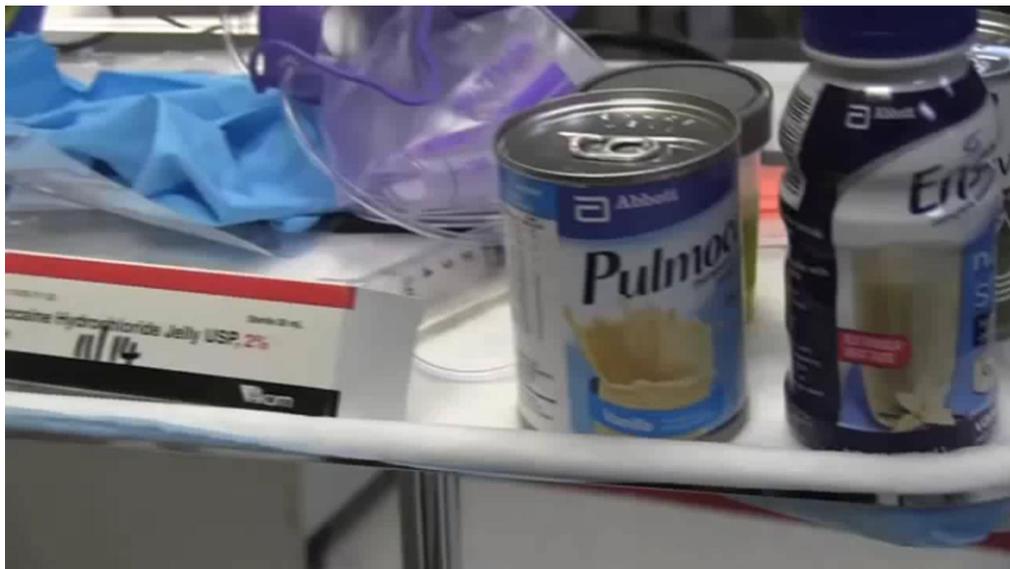


Figure 5.11 Still capture taken from "How Guantanamo Prisoners on Hunger Strike Are Fed." Credit: Jose A. Iglesias/Miami Herald.

As in the first set of images, his face and the face of the officers who flank him are obscured from view (see Figure 5.10). Once again, what does take central stage is the restraint chair used to confine detainees as they are being fed

(see Figure 5.11) as the medical tray containing the tools used in feeding. Standing next to the restraint chair, holding a length of feeding tube in his hands, the officer repeats the state's perspective on force feeding: he describes it as "only done for medical reasons" once detainees "get to a dangerous weight [where] medically we have to perform to keep them alive". Moreover, the restraint chair is described as a "standard restraint" identical to the ones used in the "US Bureau of Prisons".

The officer then begins to detail the force-feeding process. Hands outstretched, he notes, "we would always offer the meal first – we certainly respect their right to peacefully protest so they would always be offered the meal obviously before they get to this point" (Figure 5.12). If they refuse the meal, they are then offered a calorie equivalent to drink which, he states, "a lot of them will drink ... on their own." If they refuse this drink, the officer goes on, "as a last resort, we would end up doing the enteral feed process". Holding what he describes as "an 8 [millimetre] French", the medical officer notes that the U.S. Bureau of Prisons uses a 12-millimeter feeding tube, and that what detainees receive "is even smaller" than what most people would receive in a hospital. Such consideration continues through offering the detainees the choice between having their tubes lubricated in olive oil or a jelly solution (Figure 5.13). According to the officer, olive oil is a popular choice for detainees, "for cultural preferences". Holding the feeding tube, and then gesturing to show how it is inserted into detainees, the video ends with the officer noting, in a decidedly

upbeat tone, “then this [the feeding-tube] would be in the nose, [and] they tend to swallow it and it tends to go right down.”⁵¹² (Figure 5.14)



Figure 5.12 Still capture taken from “How Guantanamo Prisoners on Hunger Strike Are Fed.” Credit: Jose A. Iglesias/Miami Herald.



Figure 5.13 Still capture taken from “How Guantanamo Prisoners on Hunger Strike Are Fed.” Credit: Jose A. Iglesias/Miami Herald.

512 Jose A. Iglesias, “How Guantanamo Prisoners on Hunger Strike Are Fed,” August 4, 2015, *Miami Herald*, <http://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article29949522.html>. Accessed May 29, 2019.



Figure 5.14 Still capture taken from “How Guantanamo Prisoners on Hunger Strike Are Fed.” Credit: Jose A. Iglesias/Miami Herald.

The similarity of the process to domestic practices again emphasized, as force-feeding is described as “just like you would get after any sort of hospitalization or any period of not eating in a hospital in the United States”. After the detainee is “restrained for their safety and our safety”, which is done to ensure that “there is no harm”, each detainee is given customized care through the use of “different variations of formula.” Moreover, we are told that the enteral feeding tube comes in different sizes.

As noted in the opening sections of this chapter, these are profoundly strange and unsettling images. Their framings, captions, contents, and modes of production coalesce to produce a kind of dis-reality around the hunger-strike and force-feeding. This is made all the more striking when we consider these images against the stark narratives of hunger offered by the detainees: “They

have decided to leave us to waste away and die ... I am slowly slipping away and no one notices." And yet, as I have sought to articulate throughout this dissertation, it matters very much that we take notice of what is occurring in Guantanamo, even and especially when this noticing depends on looking to both what is contained within and left out of the frame of its images.

While attending to the voiding work that is enabled by these sets of images, wherein detainees are quite literally removed from them even as the forms of violence they are met with fill its frames, I attempt to take notice by reading detainees back into the images. I do so by considering how they emerge as the surface upon which state violence becomes negotiated and delimited, even as, and in fact because, they are voided from these images.

This ability to linger as a visceral and willful reminder, even when disappeared, is both a function of the hunger-strike itself, and of the detainee body, as a male Muslim body. Indeed, both the hunger-strike and the detainee body bear their own relation to (in)visibility; starvation campaigns not only acquire part of their political mileage through the attention that is drawn to the strike⁵¹³, but also through the visualization of starving bodies. Even in contexts where emaciation is not on public view, part of the effect of the hunger-strike, dependent as it is upon acting through and upon the body, rests largely in the visual register. We are therefore able to "see" resisting bodies through such tactics which surface bodies in materially arresting and spectacularized ways, even when they remain secreted from view. This "seeing" acquires a different, and sharper, kind of acuity when considered in relation to detainee bodies.

⁵¹³ Falguni Sheth, "Unruliness without Rioting", 134.

Meanwhile, as I have argued elsewhere in this dissertation, detainees are visible, and made visible, as certain kinds of bodies that both require and effect disappearance (legal and otherwise).

In making these claims, it is useful to draw upon these sets of images as not discrete objects, but rather as operating on a continuum. Figures 5.1 through 5.9, when read against and through each other, emerge not only as an attempt by the state to offer a narrative around force-feeding at the camp. They also become the materials through which hunger-striking detainees are further constructed as certain kinds of bodies, necessitating certain methods of coercion and violence. Recall here that the images begin with the words “Honor Bound”, and a display of nutritious, fresh, and culturally appropriate food. We see the food being taken to hunger-strikers, and then, as we are told by the caption, we understand that they have refused nourishment, have indeed caused this food to be thrown into the garbage, untouched. It is not the military guards that direct the action in these images; they are, indeed, responsive only to the choices made by the detainees. The rather abrupt shift to the restraint chair, medicalized feeding apparatuses, and leg shackles is, then, softened. We understand also that the hunger-striker, the one who was on the other end of this hand-out, and who rejected the offer of food, has landed himself in this predicament. He has placed his own body in the restraints, has made himself subject to the feeding tube. “There’s a couple that enteral feed occasionally”, as we were told. This images then, also tell us that it could be otherwise for the detainee, but for his intransigence. The willful, stubborn detainee is, in this way, the present absence in these images, directing both their trajectory and the ways in which state violence unfolds and is enacted.

Let us turn to the set of still images taken from the 2014 video. Once again, the detainee emerges as a heady presence, even though he remains just outside of its frames. He does so, in part, through the ways in which he is framed as directing the action in both the video and the force-feeding regime it depicts. We are told, in each moment, that force-feeding unfolds in response to choices made by the hunger-striker: as a medically necessity, as a method of keeping him alive, and as a last resort. When he refuses the offer of food (although most take the offer) force-feeding becomes a purely medical process, akin to those in any other hospital settings (even as he is shackled). Moreover, his choices direct the method and manner through which he receives nourishment: olive oil or jelly, and then the tube goes right down. Running also throughout this set of images is a strong sense of distortion. Everything is turned upside down by them – the hunger-strike abruptly ends at the offer of a can of Ensure, and when it does not, it morphs into a medical condition, requiring carefully considered and culturally sensitive methods of care. At the end, it is not even that, as the feeding tube is readily and easily accepted by the detainees.

On the one hand, the still images from this video suggest a very clear attempt by the state to erase and minimize its violences. While this video purposely allowed for a public viewing of force-feeding, it made use of an “opaque transparency” that was made possible, in part, by the disappearance of the detainee. In other words, the *making visible* of a certain schema of state violence as “care” could not have occurred *except* through making detainees invisible. The demonstration of force-feeding practices leaves the viewer as having to “imagine the body into which the tube is inserted, [as] the medical officer even gestures toward a missing body in the movement of his hands as he

states, 'it just goes right down.'"⁵¹⁴ For Naomi Paik, this missing body on the end of the feeding tube that "just goes right down" results in a derealization of the violence of force-feeding. In this voiding, made possible through state visual practices, the state "fills in its own narrative about the feeding, one that never mentions resistance, pain, or even discomfort, but instead highlights the benevolence it performs in saving life."⁵¹⁵ While this is useful for considering how the material effects of state violence are derealized through visual practices, I argue that, in actuality, both the body of the detainee and the material effects of state violence are anything but disappeared. Rather, they are made all the more apparent, as these images and the practices they capture depict a bizarre working-out of the limits and reach of this violence against certain kinds of bodies. The choice of olive oil or juice (where most detainees are said to prefer the oil) to lubricate the feeding tubes becomes, in this framing, not a measure of care (if ever it were thought to be that). It is instead a measure of the ways in which state violence becomes routed and rationalized *through* certain bodies in particular kinds of ways. These rationalizations attend as much to bodily aversions and preferences, as they do to the forms of will that are thought to reside in and find expression through the body.

As I have argued, the hunger strike, as it finds outlet in and through the detainee body, materializes this body in intense and troubling ways, given the ways in which the male Muslim body is already inflected by a violent will and excessive corporeality. Moreover, as previously noted, to think of the hunger-

⁵¹⁴Paik, "Representing the Disappeared Body", 426.

⁵¹⁵Paik, "Representing the Disappeared Body", 426.

strike as a weaponization-of-life is to also think anew about the potentialities contained within the bodies of hunger-strikes; as they engage in their campaigns of starvation, they also make claims on and to life, a life outside of the control of the state. What becomes more visible, therefore, through the hunger-strike, are not only the glimmers of what these lives may look like, but also the bodies of hunger-strikers themselves, as they provide the “corporeal grid of intelligibility through which they make an alternative political landscape possible.”⁵¹⁶ In Guantánamo, this hyper-visibility, a by-product of an act of resistance that makes a plea to publicity through the visceral wastage of the corporeal, coalesces with a reading of the detainee body as a body-in-war. What is then, paradoxically, made further intelligible through the shrinking of flesh and the corporeal dissipation of the hunger-striking detainee, is also what demands a working out of the rationales of state violence, wherein the detainee body, itself a distorted and mediated figure, emerges as the ideal form through which this violence becomes mapped, contorted, and delimited.

Conclusion

In this chapter, I have sought to highlight the ways in which the political, biopolitical, disciplinary, and visual aspects of the hunger-strike and force-feeding regime intertwine with state visual practices to further produce meanings around both state violence and its subjects. The hunger-strike, as a particularly embodied act of resistance, conjures up bodies in such ways as to present both corporeal and existential challenges to state authority. In the process

⁵¹⁶ Bargu, “The Silent Exception: Hunger Striking and Lip-Sewing”, 7.

of managing these challenges, and determining the scope and limit of its responses, state violence depends upon visual practices in order to both render its own practices mundane, if not invisible, while simultaneously making detainees further visible as the targets of specific forms of violence. The question that lingers, in the wake of such an analysis, is what remains of the detainee and his body, as he is further constructed through relations of visibility and invisibility, and becomes the surface upon which state violence is captured, mapped, and delimited? In the final chapter of this dissertation, I follow Guantánamo's images outside of the detention camp in order to examine their re-representation in political acts of resistance. I interrogate the extent to which these re-representational practices rupture the relationship between violence and visuality, or whether they work to further subjugate those constructed through a violent visuality.

Chapter 6: “Something is Still Crying”⁵¹⁷: Visual Activism, Suffering, and the Limits of Perceptibility.

Introduction

Photographs [are] tools to aid memory. We are invited, expected, even demanded to recount and memorialize. To remember. But what exactly are we being asked to remember? How are we being asked to remember? And to what end?⁵¹⁸

Leigh Raiford, *Imprisoned in a Luminous Glare*

This dissertation has made special emphasis of the conditions under which Guantánamo’s images have been, and continue to be, produced. In doing so, I have argued that state-produced images are central to the workings of state violence in the detention camp, wherein they work to both sustain violence and to materialize it and detainees in particular ways. In addition, both the state-produced photograph, as it builds interpretations and explicitly formulates and renews politics through the visual frame, and embedded reporting, which actively takes on the perspective and interpretations compelled by the state⁵¹⁹, figure greatly into the ordering and interpretation of the camp and of detainees. As I detailed in Chapter 3, state visual practices were crucial in visibilizing and embodying an enemy body and creating a record of retribution in the aftermath

⁵¹⁷ Sontag, *On Photography*, 20.

⁵¹⁸ Raiford, *Imprisoned in a Luminous Glare*, 4.

⁵¹⁹ See Butler, *Frames of War: When is Life Grievable*; and Butler, “Photography, War, Outrage”, 823. Butler notes that embedded reporting, which involves journalists reporting from the perspective of the state, occurs in both explicit and more subtle ways: this includes agreeing to having the journalistic gaze “restricted to the established parameters of designated action”, as well as the tacit understanding that they will avoid showing images of dead American soldiers. Butler, “Photography, War, Outrage”, 822.

of the 9/11 attacks, and in legitimating the “war on terror”. In these processes, photographs do not just document violence – they are a part of it.⁵²⁰

However, neither the genesis of Guantánamo images nor their entanglement with state aims wholly determines the trajectory of their circulation, or how they have been encountered, appropriated, and represented. We must also consider further the often unruly, unpredictable, and mutable nature of images, alongside the equally likely potential they have to both *embed* and *transform* meaning. And so, despite (and sometimes *in spite of*) their origins, images live many lives, sometimes simultaneously. While they can be said to contain interpretative force in and of themselves, they are also the material through which significantly varying meanings can be sustained. Thus, Guantánamo images, while produced for particular purposes, and working to affix meaning to a specific body and subject (that of the Muslim, male, “terrorist”), accrue layers of intentions and potentialities, as they pass through military censors, are subject to further framing by media sources, enter the public domain, and become valuable evidence of state misconduct for activist groups. Indeed, as scholarship around the political potential of photography demonstrates, the fact that state-mandated images can evade and escape their highly regimented and regulated frames conveys also the emancipatory potential that inheres to the image.

⁵²⁰See Elizabeth Dauphinee, who argues that photos depicting prisoner abuse at the hands of military officers at Abu Ghraib prison produced visual records that did more than record this abuse. They also were “a part of the torture”. Dauphinee, “The Politics of the Body in Pain: Reading the Ethics of Imagery”, 147.

In this concluding chapter, I follow one such journey of potential emancipation, as I examine the use of Guantánamo images by the activist group Witness Against Torture (WAT). As touched upon in Chapter 4, while Guantánamo's early images may have worked to "structure the very possibility (or impossibility) for perceiving"⁵²¹ detainees as viable and normative legal/political subjects, these images also took on an iconic status, encapsulating for some all that was misguided in the "war on terror" campaign. In their work, WAT activists morph these images into the visual referents of state violence, illegality, and detainee suffering and vulnerability. In so doing, they do not just re-represent, re-purpose, and re-imagine these images; they also name and bring to life the scenes of subjection⁵²² occurring within their frames. How do visual records, which are produced with the (at least partial) aim of valorizing state violence and fixing detainees as certain kinds of bodies/subjects, become anti-state images and visual testimonies of detainee vulnerability and grievability?⁵²³ How can we understand the processes by which activist groups transform these images?

I begin by foregrounding my discussion against a broad overview of the many ways in which photography has been used in modern humanitarian and political mobilization efforts, and the various debates that have ensued around

⁵²¹ Schept, "(Un)seeing like a prison: Counter-visual ethnography of the carceral state", 216.

⁵²² I borrow this term from Saidiya Hartman's study of black subjectivity during slavery and its "aftermath". Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (New York: Oxford University Press, 1997).

⁵²³ This set of questions is inspired by Leigh Raiford's work on the use of lynching photos by antilynching activists in the United States. While Raiford and I take into account a different set of historical, political, and religio-racial dynamics, the total relevance of these questions to Guantánamo's images and their re-purposing by activists suggests that over time, in multiple spaces, and with regards to different groups, visual practices have played an integral role in shaping the limits and scope of representability, as it relates to both certain subjects, and the forms of suffering and violence they endure. See Raiford, *Imprisoned in a Luminous Glare*, 34.

the role of images in this regard. While photography has often been used with the intention of training, assembling, and directing ethical responsiveness and political action in the face of human suffering, it has also been viewed with a deeply skeptical eye. There is a significant divide within photography criticism as to whether images of suffering (or, for some, photographs as a whole) can impart anything true or useful to the viewer, or whether they can work to bring about effective political action. Moreover, critics have pointed to the ways in which images of suffering are often rooted in racist and/or ethnocentric framings. This makes them complicit in crafting and circulating, both visually and discursively, racist tropes and calculations as to who can be considered worthy of sympathy and what kinds of events qualify as being worthy of concern. Nonetheless, photography also offers itself as a particularly procreant tool of political mobilization and representation, both generally, and especially with regard to images of political violence; this lies in its mobility and openness to interpretation, and somewhere in-between its potential to both reify and disrupt meaning and categorization.

It is important to note that my discussion of the part images of suffering play in political mobilization is constrained by the conditions under which photographs of Guantánamo have been produced. Their role in advancing state narratives and in forming and sustaining violence means that, while the image may indeed be open to interpretation, in this case they entangle with state violence in particularly meaningful ways; war photography must be read against a backdrop of this complicity, as images work to circulate, normalize (if not

aestheticize), and sanction modern militarism and state violence.⁵²⁴ Therefore, my analysis is situated at the intersection, if not the border, of literature on “atrocity images”, humanitarian photography, and images deployed in the service of state violence, with the understanding that these categories are not discrete, and often overlap and/or compete with each other. Another potential limitation to my discussion stems from the fact that much of the scholarly conversation around this topic focus on images of what one could call unambiguous depictions of violence and human suffering. Indeed, there is a sense that if an image is deployed politically and in order to draw attention to suffering and/or violence, it is precisely because that image contains visceral, noteworthy, and impactful evidence of harm.

For as much as this dissertation has emphasized the synergistic relationship between visual practices and state violence, it is not always so clear that we can name Guantánamo’s images as ones of political violence. While I argue that these images are indeed violent, or organized in such a way as to form, direct, and sustain state violence (and law), I have also shown that the harms they contain are as hidden as they are explicit, and as contestable as they are agreed-upon, making their categorizations more fraught. As I demonstrate further on in this chapter, these complications may also muddle the work of activists re-purposing Guantánamo’s images.

In the second section of this chapter, I focus specifically on the practices of Witness Against Torture (WAT). While there are a number of groups doing

⁵²⁴ Robert Hariman, “Watching War Evolve: Photojournalism and New Forms of Violence”, in *The Violence of the Image: Photography and International Conflict*, eds. Liam Kennedy and Caitlin Patrick (London: I.B. Tauris, 2014), 139-163.

similar work⁵²⁵, I choose to focus on WAT for two reasons: first, they are a group that is solely dedicated to Guantánamo as a political and moral cause.⁵²⁶ Second, they rely upon public re-enactments and re-representations of the most iconic and widely circulated images associated with the camp and detainees – political action that is itself preserved via a careful and concise visual archiving.⁵²⁷

Taken together, these two aspects mark WAT as both among the most relevant activist groups doing work in this area, and perhaps the most visible. In examining the work of WAT, I consider the processes of visual meaning-making that occur when this meaning-making depends upon the repurposing (and perhaps reiteration) of state-produced scenes of subjection. I ask: what are the effects of such visual and material transformations, and can these counter-visual and counter-archival practices shed more light on the complicated relationship between visual practices and their role in circulating and sustaining both meaning and violence? I also reflect upon what, and who, becomes disrupted, complicated, and possibly reiterated through these practices.

⁵²⁵ This includes, for example, Reprieve, a UK-based group committed to drawing attention to the plight of “some of the world’s most vulnerable people: those facing execution, and those victimised by states’ abusive counter-terror policies – rendition, torture, extrajudicial imprisonment and extrajudicial killing”. “About”, <https://reprieve.org.uk/about/> and “Guantanamo Bay”, <https://reprieve.org.uk/topic/guantanamo-bay/>, *Reprieve*, accessed May 20, 2019. See also the work of Amnesty International in this regard. Mohamedou Slahi, “Gitmo: Time to close the damn thing”, *Amnesty International*, January 11, 2019, <https://www.amnesty.org/en/latest/news/2019/01/gitmo-time-to-close-the-damn-thing/>, accessed May 20, 2019. Both groups also collaborate often with WAT.

⁵²⁶ Although, this has not prevented WAT from collaborating with other activist groups, such as Black Lives Matter. See Chandra Russo,

⁵²⁷ See the Witness Against Torture public website, and their photo archive section documenting the group’s work. <http://www.witnessagainsttorture.com/photos/> Accessed May 19, 2019.

6.1 Framing Suffering: Images and the Ethical/Political Impulse

Nothing I have ever seen — in photographs or in real life — ever cut me as sharply, deeply, instantaneously. Indeed, it seems plausible to me to divide my life into two parts, before I saw those photographs ... and after, though it was several years before I understood fully what they were about.⁵²⁸

Susan Sontag, *On Photography*

Try to imagine, if only for a moment, what your intellectual, political, and ethical world would be like if you had never seen a photograph.⁵²⁹

Susie Linfield, *The Cruel Radiance*

The photograph has played a vital role in humanitarian and anti-war campaigns since the turn of the 20th century. In what was a fortuitous moment in history, photographic technologies developed in tandem with a rise in religious and private organizations dedicated to bringing awareness to human suffering.⁵³⁰ This resulted in what Heide Fehrenbach and Davide Rodogno call “humanitarian photography”, or, photography enlisted “in the service of humanitarian initiatives across state boundaries.”⁵³¹ Many of the early examples of humanitarian photography centered on campaigns designed to garner support for national or global causes, to “train the ethical impulses of viewers”⁵³², and to

⁵²⁸ Susan Sontag, *On Photography*, 19-20. Sontag here is referring to images of the Holocaust.

⁵²⁹ Susie Linfield, *The Cruel Radiance: Photography and Political Violence* (Chicago: The University of Chicago Press, 2010), 46.

⁵³⁰ Heide Fehrenbach and Davide Rodogno, “A horrific photo of a drowned Syrian child”: Humanitarian photography and NGO media strategies in historical perspective”, *International Review of the Red Cross* 97, no. 900 (2015): 1123.

⁵³¹ Fehrenbach and Rodogno, “A horrific photo of a drowned Syrian child”: 1124

⁵³² Fehrenbach and Rodogno, “A horrific photo of a drowned Syrian child”: 1124

create a recognizable humanitarian imagery.⁵³³ At the root of this mobilization was the belief that exposing viewers to visceral scenes of suffering would work to shock both senses and consciences, leading to both awareness and social and political change.⁵³⁴ Early uses of humanitarian imagery include newsletters, pamphlets, and newspapers circulated in order to call attention to atrocities committed in the Belgian Congo Free State, the Armenian genocide, and governmental policies that produced famines in South Africa and post-WWI Europe.⁵³⁵

Operating as a form of moral rhetoric, these images worked to connect audiences to the suffering of distant subjects.⁵³⁶ At the same time, as they moved through global circuits and transformed catastrophic events into “safely communicable spectacles of atrocity”,⁵³⁷ they had the effect of creating a comfortable *distance* between the viewer and the suffering subject. In “show[ing] a suffering that is outrageous, unjust, and should be repaired, they [also] confirm[ed] that this is the sort of thing which happens in *that* place.”⁵³⁸ There is,

⁵³³ Fehrenbach and Rodogno, “A horrific photo of a drowned Syrian child”: 1126

⁵³⁴ Fehrenbach and Rodogno, “A horrific photo of a drowned Syrian child”: 1123

⁵³⁵ Fehrenbach and Rodogno, “A horrific photo of a drowned Syrian child”: 1123

⁵³⁶ It was not until the 1980s that humanitarian NGOs adopted rules and regulations around the use explicit images of suffering; this change was spurred by the circulation of appalling images of starvation during the Ethiopian famines in the mid-1980s, including those containing children. See Fehrenbach and Rodogno, “A horrific photo of a drowned Syrian child”, 1150. According to Grant, images of distant suffering must always be balanced between showing what is necessary to induce reaction, and maintaining a certain level of propriety and adherence to normative standards. Images must be “tolerably shocking”, where “the desired visceral effect must be balanced with an analytical, even clinical explanation that affords the audience safe emotional distance from an image of chaos brought to light”. See Kevin Grant, “The limits of exposure: atrocity photographs in the Congo reform campaign”, in *Humanitarian Photography: A History*, eds. Heidi Fehrenbach and Davide Rodogno (Cambridge: Cambridge University Press, 2015), 64.

⁵³⁷ Marta Zarzycka, “Madonnas of Warfare, Angels of Poverty: Cutting through press photographs”, *Photographies* 5, no. 1 (2012): 71.

⁵³⁸ Sontag, *Regarding the Pain of Others*, 64, emphasis added.

then, a contradictory relation at play here. The sympathy aroused by images of suffering “require[s] distance – these people are so wretched, so distant from us that we are prompted to act – yet paradoxically, this distance [is] most effectively created by a technology that [is] seen to bridge distance.”⁵³⁹ Photographic technologies thus worked to “both collapse[] distance between the subject of suffering and the viewer, and also create[] greater space between them – a sense of difference – that was essential to the empathetic or sympathetic response.”⁵⁴⁰

The affective and effective work done by the humanitarian image thus lies in its ability to both generalize and to particularize, made all the more powerful by its careful, purposeful framing and presentation.⁵⁴¹ In giving a recognizably human, if othered, face to suffering, and in making certain events and/or people both comprehensible and palatable for audiences far removed from suffering and its victims, either geographically, or imaginatively⁵⁴², such images also play upon the particular relationship to truth that the photograph holds. In other words, “truth” adheres to the photographic image, casting it with a sense of authority that demands audiences take heed of whatever is contained in the frame as not just a representation of fact, but as a form of truth in and of itself. In this sense, “displaying shocking images of bodily suffering and deprivation [were also used as] truth claims in order to prompt humanitarian action.”⁵⁴³

⁵³⁹Christina Twomey, “Framing Atrocity: Photography and Humanitarianism”, *History of Photography* 36, no. 3 (2012): 261.

⁵⁴⁰Twomey, “Framing Atrocity”, 264.

⁵⁴¹Fehrenbach and Rodogno, “A horrific photo of a drowned Syrian child”, 1124, 1144.

⁵⁴²Fehrenbach and Rodogno, “A horrific photo of a drowned Syrian child”, 1124.

⁵⁴³Twomey, “Framing Atrocity”, 258.

This image-as-truth, or as bearing a certain vital proximity to truth, is evident in how the photograph has been a, if not *the*, central tool through which political atrocities have come to be identified and named as such.⁵⁴⁴ There is, then, a strong link between the photograph as offering the truth of violence borne by suffering bodies and narratives of atrocity and human rights abuses. Images of brutalized bodies, located in specific places and contexts, and suffering specific harms, shape our conception of what violence suffered during wartime looks like, how and where it manifests, and who it is suffered by.⁵⁴⁵ At the same time, the truth that such images are believed to capture belies the fact that they too are “cultivated products, whose careful framing, crafting and editing “lends a special kind of presence” to what is depicted.”⁵⁴⁶ The meaning of such images is also, then, like all photographs, “dependent on narration and framing, text and context”, although its content often works to occlude this crafting.

Guantánamo’s images, as state-produced, cannot so neatly be categorized as humanitarian photography. The naming and categorizing work they do contains the force of state and military sanction, meaning that what is contained within the frames of this images can equally be seen as scenes of political violence or appropriate action taken against uniquely dangerous bodies. This is the case even though, as Butler reminds us, the frame can be broken. The frame can break with itself, can be broken open from the outside, and in this breaking,

⁵⁴⁴ Twomey, “Framing Atrocity”, 255. See also Sontag, *Regarding the Pain of Others*.

⁵⁴⁵ See Twomey, “Framing Atrocity”, 256, and Susan Sontag, “Looking at War: photography’s view of devastation and death”, *The New Yorker*, December 2, 2002.

⁵⁴⁶ Fehrenbach and Rodogno, ““A horrific photo of a drowned Syrian child””, 1145.

allows for “a taken-for-granted reality [to be] called into question, exposing the orchestrating designs of the authority who sought to control the frame.”⁵⁴⁷

Indeed, a central aim of this dissertation has been to both contend with the meanings of Guantánamo’s frames, and to break them open. WAT’s practices also do this fracturing and exposing work. However, even in the appropriation of Guantánamo’s images, their categorization as humanitarian photography is also complicated by the ways in which detainees have been framed and encountered as culpable, violent, and necessitating certain forms of legal, political, and material forms of violence; in these processes, both the notion and reality of “atrociousness” and “suffering” are rendered more difficult to see. Nonetheless, WAT’s repurposing of these images can be said to fall within the same broad category of visual technologies being used as a method of political action, in order to change or form public opinion, and to cultivate sympathy for a group at-a-distance (whether this distance be geographical, racial, or political).

6.2 Casting a Skeptical Eye: Violent Images and the (Im)possibility of Response

When I looked at those photographs, something broke. Some limit had been reached, and not only that of horror; I felt irrevocably grieved, wounded, but a part of my feelings started to tighten; something went dead; something is still crying.⁵⁴⁸

Susan Sontag, *On Photography*

⁵⁴⁷ Butler, *Frames of War: When is Life Grievable?*, 12.

⁵⁴⁸ Sontag, *On Photography*, 20.

Despite the humanitarian and political possibilities of the image, an equal, if not greater, amount of suspicion haunts both their form and function. For many, this skepticism is rooted in the photograph's *inabilities* – specifically, in its incapacity to give rise to political and ethical responsiveness. Perhaps no one has been as trenchantly skeptical about the possibilities of photography in this regard than Susan Sontag. Sontag's 1977 book, *On Photography*, remains a profoundly impactful work of photographic criticism, ushering in an era of intense distrust of the image, both in its ability to tell us anything at all and in what little it did manage to say. Sontag argued incisively against the image, as a voyeuristic and predatory form, given to treachery and abstraction, as well as to imperialism and reductionism.⁵⁴⁹ The photograph is both intrusive and aggressive, momentary and selective⁵⁵⁰, and passively manipulative; she states, "the camera does not rape, or even possess, though it may presume, intrude, trespass, distort, exploit, and, at the farthest reach of metaphor, assassinate – all activities that ... can be conducted from a distance, and with some detachment".⁵⁵¹ Moreover, the image is always momentary, "selective", "never less than an emanation (light waves reflected by objects) – a material vestige of its subject...";⁵⁵² it therefore can never tell us anything of use.

Sontag's critique centers on her abiding concerns about images depicting the horrors of political violence. Beyond shocking viewers for a moment, "what

⁵⁴⁹ See Susie Linfield's reading of Sontag's work in Linfield, *The Cruel Radiance: Photography and Political Violence*.

⁵⁵⁰ Sontag writes that the image is always momentary, "selective", "never less than an emanation (light waves reflected by objects) – a material vestige of its subject." See Sontag, *On Photography*, 81.

⁵⁵¹ Sontag, *On Photography*, 13.

⁵⁵² Sontag, *Regarding the Pain of Others*, 154.

good", she asks, "was served by seeing them? They were only photographs – of an event I had scarcely heard of and could do nothing to affect, of suffering I could hardly imagine and could do nothing to relieve".⁵⁵³ The muting of response that accompanies such images is made all the worse by their circulation and repetition. Shock is, like the image, a momentary state, one that cannot help but abate, over time, and with repeated viewings of photographs of atrocity; for Sontag, this means that "'concerned' photography has done at least as much to deaden conscience as to arouse it."⁵⁵⁴

Roland Barthes' work draws on Sontag's arguments, although he troubles the photograph as saying *too* much, rather than too little, or nothing at all. In it, he critiques the usefulness of images of violence, and finds that the overwrought and overconstructed photograph, too enraptured by its own completion and wholeness, cannot allow for the construction of genuine responses. There is, in other words, no room for something else, something other, to leak in to the image. In their "completeness", they "...dispossess[] us of our judgement: someone has shuddered for us, reflected for us, judged for us; the photograph has left us nothing."⁵⁵⁵ Images of political violence, for John Berger, did little more than produce feelings of helplessness, if not a certain kind of self-absorption, in viewers.⁵⁵⁶ Such images overwhelmed the viewer and stultified and inured affective responses. Moreover, photographs which captured the agony and terror of war could not also help but to cast light on the moral

⁵⁵³ Sontag, *On Photography*, 20

⁵⁵⁴ Sontag, *On Photography*, 20, 21

⁵⁵⁵ Roland Barthes, *The Eiffel Tower and Other Mythologies*, trans. Richard Howard (Berkeley: University of California Press, 1997), 71.

⁵⁵⁶ See John Berger, *About Looking* (London: Writers and Readers, 1980)

inadequacies of the viewer. In the moment at which the “sense of shock is dispersed: [the viewer’s] own moral inadequacy may now shock ...as much as the crimes being committed in the war ...[and] the issue of the war which has caused that moment is effectively depoliticized. The picture becomes the evidence of the general human condition. It accuses nobody and everybody.”⁵⁵⁷ In her book *The Spectatorship of Suffering*, Lilie Chouliaraki argues that the proliferation of images capturing the extreme vulnerability and abjectness of others has cultivated pessimism in audiences, rather than positive action.⁵⁵⁸ Images of violence normalize atrocities, remove a sense of urgency, and are eventually approached with apathy, if not outright skepticism, by a fatigued public.⁵⁵⁹

Taken together and read against each other, these critiques can be said to not only question the ethics of looking at images of suffering, but to also cultivate an ethical imperative to *not* look, to look away from these photographs. Sontag, for her part, would later come to find some possibility in the image. In her later works, including *Regarding the Pain of Others*, she comes to reconsider her earlier arguments, and concedes that photographs can, to a certain extent, convey

⁵⁵⁷ Berger, *About Looking*, 39-40.

⁵⁵⁸ Lilie Chouliaraki, *Spectatorship of Suffering* (London: Sage Publications, 2006). See also Barbie Zelizer, who states, “people may feel so helpless from seeing repetitive shots of horror that they do not want to see more than they are already seeing”. Zelizer, *Remembering to Forget*, 218.

⁵⁵⁹ See Susan Moeller, who calls this sense of being overwhelmed by images and stories of human suffering “compassion fatigue”. Susan D. Moeller, *Compassion Fatigue: How the Media Sell Disease, Famine, War, and Death* (London: Routledge, 1999). Such insights draw on Hannah Arendt’s notion of the politics of pity, wherein pity work differently from solidarity and compassion. Pity works to make a distinction and create a distance between those who suffer (and are observed to be suffering) and those who do not (but who observe those who suffer). In the process, suffering is made into a spectacle, and political action is consigned to the act of observation. Hannah Arendt, *On Revolution* (Harmondsworth: Penguin, 1990).

suffering in ways that evoke, rather than flatten, moral responses.⁵⁶⁰ Still, she remained convinced that photography's fatal flaw lay in fleetingness. In this sense, while images may, for an instant, move or haunt us⁵⁶¹ (although, even here, Sontag is suspicious of the image's aestheticization of suffering⁵⁶²), they cannot do more than deliver fragmented, partial moments; in their inability to build coherent narratives, they still cannot be trusted to impart the kind of understandings that impactful ethical responsiveness requires.⁵⁶³ While, in Butler's reading of Sontag, these brief hauntings may give rise to certain kinds of understanding⁵⁶⁴, she concedes that Sontag, even in her later work, remained troubled by the ability of photograph to simultaneously rouse moral sentiment and paralyze political action.⁵⁶⁵

While Sontag and others were speaking mainly about images of overwhelming violence and suffering, the notion that such photographs are both momentary and excessive, both incomplete and saying too much, and

⁵⁶⁰ Sontag also asks for proof, for her own argument, that photographs of suffering reduce our ability to respond to that suffering, and finds none readily available. See Sontag, *Pain of Others*, 105.

⁵⁶¹ Susan Sontag, "Looking at War: photography's view of devastation and death", *The New Yorker*, December 2, 2002.

⁵⁶² For Walter Benjamin, it was the mechanical nature of photography itself that created an overly-aestheticized, passive society, wherein abject scenes transformed into objects of enjoyment and made both human misery and the struggle against it objects of consumption. Walter Benjamin, "The Author as Producer", in *Thinking Photography*, ed. Victor Burgin (London: Macmillan, 1982): 24-25. This is not to say that Benjamin did not consider the photograph as completely without possibility, as he also argued that it also could allow for new ways of seeing. See Walter Benjamin, "A Little History of Photography", in *Selected Writings*, ed. Michael William Jennings (Cambridge: Harvard University Press, 2002), 507-530.

⁵⁶³ Sontag, "Looking at War".

⁵⁶⁴ Butler argues that in Sontag's notion of images as haunting, "understanding is to be wrought...[w]e see the photograph and cannot let go of the image that is transitively relayed to us. It brings us closer to an understanding of the fragility and morality of human life, the stakes of death in the scene of politics". Butler, "Power, War, Outrage", 825

⁵⁶⁵ Butler, "Power, War, Outrage", 825

manufacture skepticism, rather than concern, figures greatly into a consideration of the re-representation of Guantánamo's images in order to raise political and ethical responsiveness. Namely, these practices raise questions both around their ability to sustain the narratives necessary to activate such consciousness, as well as whether what is activated in their wake is indeed moral concern, rather than apathy, if not hostility.

Humanitarian photography is also, for many critics, deeply "implicated in structures of power, particularly the modern visual economy in which 'we', in the industrial West, watch as 'others', elsewhere, suffer."⁵⁶⁶ It is also a practice that is embedded in colonial relations of power; these relations, alongside the epistemic violences they rely upon and engender, ensnare the subjects of images, even before they, or the suffering they bear, are made visually apprehendable.⁵⁶⁷ In Fehrenbach and Rodogno's reading of the 2016 image of Ayan Kurdi, they argue that Ayan's "doubly depoliticized" identity as a civilian and a child functioned as "both a visual trope and a moral construct".⁵⁶⁸ This is what allowed for an image depicting a dead child washed up upon the shores of the Mediterranean Sea to become an icon of the war and the refugee crisis, as well as a moral indictment against the inaction of Western states.

However, the framing of this image, in which the camera captured a "geographical and cultural particularity", and the visual evidence provided by Ayan's body, where he appeared to be a white child, is what also allowed for

⁵⁶⁶ Heide Fehrenbach and Davide Rodogno, "Introduction – The Morality of Sight: Humanitarian Photography in History", in *Humanitarian Photography: A History*, eds. Heide Fehrenbach and Davide Rodogno (Cambridge: Cambridge University Press 2015), 2.

⁵⁶⁷ Sonia Tascon, "Considering Human Rights Films, Representation, and Ethics: Whose Face", *Human Rights Quarterly* 34, no. 3 (2012): 876.

⁵⁶⁸ Fehrenbach and Rodogno, "A horrific photo of a drowned Syrian child", 1146

Ayan to be encountered and responded to *as* a white European child. In other words, his identity, while depoliticized to a certain extent, was also constructed via a visual frame that “saw” him as white and therefore, as worthy of a particular kind of response. Here, we see a visceral example of the ability of such images to draw the viewer near – however, this nearness was only made possible through a visual rendering of Ayan as bearing a reasonable approximation to whiteness, to Europe, and to the political and ethical modes of responsiveness that adhere to these imaginative, racial, and geographic locations.⁵⁶⁹ In this sense, images of suffering are both shaped by and do the shaping work of racial stereotyping and categorization,⁵⁷⁰ which, in turn, set the boundaries of legibility around who is capable of being seen *as* suffering.

6.3 Between Peril and Promise: Photography’s Political Possibilities

Whether and how we respond to the suffering of others, how we formulate moral criticisms, how we articulate political analyses, depends upon a certain field of perceptible reality having already been established.⁵⁷¹

Judith Butler, *Frames of War*

Despite photography’s troubled relationship to the truth, to suffering, and to power, the image’s enduring ability to sear itself into national consciences and to *move* people suggests that it carries too much potential for humanitarian and political action to be too easily cast aside. In *The Cruel Radiance: Photography and*

⁵⁶⁹ Fehrenbach and Rodogno, “‘A horrific photo of a drowned Syrian child’”, 1146

⁵⁷⁰ See also Twomey’s historical study of the ways in which atrocity photographs of Indian famine victims and Congolese suffering under Belgian rule were put in the service of British colonial projects. Twomey, “Framing Atrocity: Photography and Humanitarianism”.

⁵⁷¹ Judith Butler, *Frames of War*, 64.

Political Violence, Susie Linfield argues against the deep cynicism running throughout photography criticism. She urges that, against an ethics of *not looking*, we re-consider the power and potential of the gaze and the image. Linfield is dismissive of the notion that looking at images of political violence offers “an elevated spiritual and moral meaning” through which we are able to access the experiences of victims and thus redeem their suffering.⁵⁷² She does, however, argue that what is important is “how we *use* images of cruelty.”⁵⁷³ The answer to whether images can help us make meaning of cruelty, therefore, lies not in pictures, but in ourselves. As she remarks, “photojournalists are responsible for the ethics of showing, but we are responsible for the ethics of seeing.”⁵⁷⁴ The responsibility that this entails “requires transforming our relationship to photographs from one of passivity and complaint to one of creativity and collaboration, and it means regarding the violators of human rights – not the photographers who document their victims – as the real ‘agents of death.’”⁵⁷⁵ In this regard, the means through which images of political violence are produced bear little relation to how they are taken up, or used. In other words, photographs are not “encoded” with a particular gaze.⁵⁷⁶

Linfield’s intervention focuses mainly on the political and solidarity-building potentials contained in photography that bears witness to or records scenes of atrocity and political violence; she has less to offer when it comes to images that are, themselves, a part of state violence. Ariella Azoulay’s work on

⁵⁷² Linfield, *The Cruel Radiance*, 94

⁵⁷³ Linfield, *The Cruel Radiance*, 60

⁵⁷⁴ Linfield, *The Cruel Radiance*, 60

⁵⁷⁵ Linfield, *The Cruel Radiance*, 60

⁵⁷⁶ Linfield, *The Cruel Radiance*, 71

civil imagination and photography attends somewhat to this gap. In opposition to Sontag's insistence on the fatally momentary nature of the image, Azoulay argues that photography is an event. In other words, it is not a moment, but rather, a never-finished product where "[w]hatever is inscribed in the photograph always exceeds what its owner wished to put in it."⁵⁷⁷ The photograph is thus always "open at all times to additional participants ... who will not only interpret what is seen in it as a given, but also reshape the seen that is to be read."⁵⁷⁸ In this sense, photography as an "event", is a "series of encounters", unfolding simultaneously and over time, where no particular perspective can be said to conclusively shape the meaning of an image, and where photographs are not bound to the moment of their capture.⁵⁷⁹ Azoulay traces the role of the photograph, as both a record and a tool of statecraft (and thus state violence), in her examination of the Israeli occupation of Palestinian territories. In doing so, she argues that images capturing the violence of the Israeli state are ongoing events, where the meanings that can be and are invested in them are capable of shifting continually. To treat them otherwise – as containing closed meanings – would be to "constitute an act of law-preserving violence"⁵⁸⁰, reiterating the political categorizations that helped give rise to them in the first place.

⁵⁷⁷ Ariella Azoulay, "Regime-Made Disaster: On the Possibility of Nongovernmental Viewing", in *Sensible Politics: The Visual Culture of Nongovernmental Politics*, eds. Yates McKee and Meg McLagan (New York: Zone Books, 2012), 38.

⁵⁷⁸ Azoulay, "Regime Made Disaster", 38

⁵⁷⁹ Ariella Azoulay, *Civil Imagination: A Political Ontology of Photography* (New York: Verso, 2012), 54.

⁵⁸⁰ Azoulay, "Regime-Made Disaster", 39.

Importantly, what Azoulay's contribution allows for is the possibility to forge different meanings to and with images, despite their genesis or the perspective it participates in embedding (or is embedded within). In doing so, it is also possible to engage with photographs in ways that resist both the constituent violence that at one time gave them meaning and "the potential of law-preserving violence preserved in the way the photograph is presented."⁵⁸¹ This is an especially important insight given the ways which state force sticks to and is produced through Guantánamo's images. Azoulay forces us to think more seriously about the shifting nature of images and the opportunities they present for civil engagement; she also warns that, if we do not, we risk repeating the violences through which certain images are produced.

As detailed earlier in this chapter, photography holds a particular relation to truth. Images are thought to capture, either in part or in whole, "a truly existing thing",⁵⁸² casting photography with a forceful indexical power. As it pertains to race, this has allowed for photography to both produce racial subjects, and to be the material through which the existence of race was itself confirmed.⁵⁸³ In these processes, photography did not merely record race – "because of its purported technological objectivity as a recording device, photography was marshaled to document the 'fact' of racial difference."

⁵⁸¹ Azoulay, *Civil Imagination*, 230-231.

⁵⁸² Raiford, *Imprisoned in a Luminous Glare*, 12.

⁵⁸³ Raiford, *Imprisoned in a Luminous Glare*, 12.

Photography then, also “*produced* race as a visualizable fact”⁵⁸⁴, and disciplined viewers as to the ways in which race could be seen⁵⁸⁵ (or not seen).

As a measure of its complicated relationship to race, photography has also been used to great effect by racialized groups, in order to re-inscribe meaning onto racialized bodies, and to dismantle racial categorizations and constructions of racial difference.⁵⁸⁶ Photography’s potential to both fix and disrupt race marks it as neither “good” or “bad”; rather, it reveals it to be a creative site, and tool, of racial and political struggle. It reveals also the ways in which “the political stakes of cultural representation and the cultural terrain of political representation are ...never very far apart”⁵⁸⁷ for some groups.

Leigh Raiford provides a compelling account of the ways in which anti-lynching activists used images of lynchings to document and expose the brutality that marked the lives of black people in America. Black activists transformed these images into visual evidence of atrocity, and used them to make moral and political calls to action.⁵⁸⁸ The re-purposing of these images served to shift public opinion about lynching⁵⁸⁹, to garner support for legal and political demands to recognize its occurrences and bring about its end, and to “rewrite the meaning of black bodies in public spaces.”⁵⁹⁰ In dismantling and reassembling lynching

⁵⁸⁴ Coco Fusco, “Racial Time, Racial Marks, Racial Metaphors,” in *Only Skin Deep. Changing Visions of the American Self*, eds. Coco Fusco and Brian Wallis (New York: International Center of Photography, 2003), 16.

⁵⁸⁵ Raiford, *Imprisoned in a Luminous Glare*, 27.

⁵⁸⁶ Raiford, *Imprisoned in a Luminous Glare*, 13.

⁵⁸⁷ Raiford, *Imprisoned in a Luminous Glare*, 27.

⁵⁸⁸ Raiford, *Imprisoned in a Luminous Glare*, 34.

⁵⁸⁹ Raiford, *Imprisoned in a Luminous Glare*, 2.

⁵⁹⁰ Raiford, *Imprisoned in a Luminous Glare*, 3.

images, while also visually referring that violence, anti-lynching activists “reveal[ed] the fractures and flaws in the edifice of white supremacy”,⁵⁹¹ offered ‘competing ways of ‘seeing’ lynching”, and worked “to reverse the gaze that cohere[d] whiteness and fixe[d] blackness.”⁵⁹²

These actions, however, were accompanied by a certain amount of risk. Raiford notes that lynching images could also work to “reify the black body (in pain or in triumph)...”.⁵⁹³ So, while photographs could also emancipate, they could just as easily imprison; as Raiford states, “the image is always in danger of reproducing the violence or spectrualizing the figures it documents without occasioning an opportunity for action, engendering both shock and silence.”⁵⁹⁴ Nonetheless, by reframing these images as the “the shared shame of the entire nation”⁵⁹⁵, black activists disrupted and untangled the ties that bound racial ideologies and visual technologies together. In putting forth alternative meanings of black life and black subjectivity, meanings which moved beyond what was imprisoned by the frame of the lynching image,⁵⁹⁶ they also drew attention to the ways in which, for some, “multiple visual representations of themselves are always in intense dialogue with one another.”⁵⁹⁷

The notion of images as both fixing and disrupting meaning, and as the material through which both bodies and their representations are engaged in

⁵⁹¹ Raiford, *Imprisoned in a Luminous Glare*, 41.

⁵⁹² Raiford, *Imprisoned in a Luminous Glare*, 46.

⁵⁹³ Raiford, *Imprisoned in a Luminous Glare*, 3.

⁵⁹⁴ Raiford, *Imprisoned in a Luminous Glare*, 8

⁵⁹⁵ Raiford, *Imprisoned in a Luminous Glare*, 13

⁵⁹⁶ Raiford, *Imprisoned in a Luminous Glare*, 56

⁵⁹⁷ Raiford, *Imprisoned in a Luminous Glare*, 13-14

intense dialogue with other forces, is a particularly generative one when it comes to the re-representation of Guantánamo images. As I have shown throughout this dissertation, these images share a certain close relation to fixity; they are also given easily towards the subjectification and fetishization of the male Muslim body. However, what is compelling about Raiford's account is the ways in which the *same* images of violence and degradation, through the putting forth of alternative visions of black life, served to untangle visual practices from state violence. As we will see in the next section, it is perhaps precisely the use of *alternative*, rather than reiterative, representations of life that set anti-lynching images apart.

6.4 Witnessing Who, and What? Anti-Guantánamo Activists and the (In)stability of the Photograph

Imagining requires us to think ourselves into the skin of others.

Elizabeth Dauphinee, "The Politics of the Body in Pain".⁵⁹⁸

[P]hotographs of suffering present both: hopelessness and therefore possibility of hope.⁵⁹⁹

Sharon Sliwinski, "A Painful Labour: Responsibility and Photography".

As this chapter has explained, there is at the heart of photography criticism a constant worry; that is "the capacity of photographs both to mobilize

⁵⁹⁸ Dauphinee, "The Politics of the Body in Pain: Reading the Ethics of Imagery",

⁵⁹⁹ Sharon Sliwinski, "A painful labour: responsibility and photography", *Visual Studies* 19, no. 2, (2004): 156.

political sentiment over the suffering represented and also to produce suffering through the very act of representing it.”⁶⁰⁰ It is at this point, between the potentials and hazards offered by such images, that I turn to the work of Witness Against Torture (WAT) activists. Every January 11th, since 2007, WAT marks the anniversary of the first detainees arriving at Guantánamo Bay. WAT, as an activist group dedicated to shutting down Guantánamo, regularly carries out such demonstrations in Washington D.C. and other major cities around the United States. According to their stated objectives, they do so with the aims of engaging in “nonviolent direct actions to expose and decry the administration’s lawlessness, build[ing] awareness about torture and indefinite detention amongst Americans and forg[ing] human ties with the prisoners at Guantánamo and their families.”⁶⁰¹ This includes fasting in solidarity with hunger-striking detainees, holding memorials for those who have died in the detention camp, and drawing attention to the plight of detainees in public spaces through placards, speeches and poetry readings, and marches; in some instances, it also involves the re-enactment of violence associated with the detention camp: water-boarding, force-feeding, and shackled, caged, legally abandoned bodies.

An aspect of WAT’s protest that is particularly striking is the ways in which activists rely upon and reinterpret state-produced images of Guantánamo’s violence. Through the very same state-produced photographs that do work as *part* of state violence, activists mount their own counter-visual

⁶⁰⁰ Mark Reinhardt, “Picturing Violence: Aesthetics and the Anxiety of Critique”, in *Beautiful Suffering: Photography and the traffic in pain*, eds. Mark Reinhardt, Holly Edwards, Erina Dugganne (Chicago: University of Chicago Press, 2007), 15.

⁶⁰¹ Witness Against Torture, “About Us”, <http://www.witnessagainsttorture.com/about/>, accessed May 20, 2019.

representations, while also making vivid use of their own bodies and voices to make present the bodies and voices of detainees.⁶⁰² In some cases, they create visual records of violence where no such records of it actually exist, as is the case with the group's re-enactments of waterboarding and force-feeding, and also elide differences between state practices of violence in the war on terror. In this, and in the recalculation of Guantánamo's violences as the shame of the state, WAT activists intervene in and potentially rupture the complicity between state violence and visual practices.

However, these re-representational practices may also play a role in sustaining this relationship, and an analysis of their use can shed further light on how visual practices, whether done at the behest of the state or as acts of resistance, can come to sustain framings of subjects who are subjugated through the use of violent visualities. One way to approach WAT's practices would be to retain a solely skeptical outlook, and to question whether the state-mandated image, in its consolidation of a scopic regime that demands we look and see in a certain way, may ever be exorcised of the logics which determine their original unfolding. Azoulay's notion of photography as an event, rather than a concrete moment, may once again help some to move us away from such a stance.

The particular relationship between images, bodies, and state violence means that thinking of Guantánamo's images as events requires also thinking through the manner in which they are materially bound to national, legal, and racial imaginaries, as they are "revisited and repeatedly invoked well beyond

⁶⁰²Chandra Russo, "Witness Against Torture, Guantánamo, and Solidarity as Resistance", *Race and Class* 58, no. 2 (2016): 6.

their moment of origin.”⁶⁰³ This compels us to approach these images as an ongoing event of visual and material violence, wherein this violence accumulates and accrues in and through visual practices/moments, whether they are undertaken by the state or by activists. In light of this, and the critical terrain that has been outlined in this chapter, I approach WAT’s practices through the lenses of both hope and fear; of possibility, and of peril.

A photo from a 2008 WAT demonstration depicts several rows of activists in orange jumpsuits, some wearing hoods, lined on the ground in kneeling positions (Figure 6.1).



Figure 6.1 WAT and Amnesty International Protest, Washington D.C., 2008.
Photo Credit: Getty Images

Heads bowed, their faces are indistinct, although it is clear that most of the protestors appear to be white men and women. It is raining in the picture

⁶⁰³ Raiford, *Imprisoned in a Luminous Glare*, 22.

(several wear rain ponchos over their jumpsuits), and a tarp lies under their knees, protecting them from the wet ground. Behind them, a row of demonstrators stands, holding orange signs; their faces are also cut off, but this time by the frame of the photo. The focus of the photo, which is on the kneeling demonstrators, makes it difficult to tell what is written on the signs, although certain words stand out: “country” and “justice”. Some of the signs are held at chest level, while others droop in hands. Several of the backgrounded demonstrators have their bodies turned to each other in what could be conversation, suggesting that, while some activists pose for the camera, others take a moment’s respite. It is clear what this practice, and image, are drawing upon. The scene is eerily, and purposely, reminiscent of the first images that came out of Guantánamo (Figure 6.2), although there are obvious differences.



Figure 6.2 “A Nation Challenged: Detainees; For America's Captives, Home Is A Camp In Cuba, With Goggles And A Koran.” New York Times, January 20, 2002.
Photo Credit: Shane T. McCoy/United States Navy

Imagining, as Dauphinee argues, “requires us to think ourselves into the skins of others.”⁶⁰⁴ Figure 6.1 shows us that activists do not just think themselves into the skins of detainees. They occupy them. Free, mostly white, conceivably American, activists inhabit the bodies of detainees and step into the frames of images capturing and forming a part of their subjection. In the process, they reframe those images, to say something *else* about state violence. In other words, on the one hand, the re-enactment of these scenes *by* these bodies exposes state violence in ways that images containing detainees cannot. In rerouting what detainees suffer through the bodies of activists, viewers may be drawn into or nearer to the scene of subjection in more impactful ways. The pains of indefinite detention, of stress positions, of legal and political abandonment, may be made ineluctable once borne by bodies that matter, both racially, legally, and politically. This is, conceivably, part of the objective of such re-enactments. In bring these visual scenes to “life”, this practice assumes that there is something, or *someone*, that requires enlivening and reviving. Moreover, it assumes, rightly, that the bodies of activists matter in ways that the detainees do not, just as the space in which it is enacted matters in ways that action within an indefinite detention camp does not. The question is not whether the conditions under which Guantánamo’s detainees subsist have transformed them into legal, political, and visual spectres – in fact, much of this dissertation has argued just that. The concerns that WAT’s practices do raise, however, is whether in re-enacting and re-embodying such scenes within certain spaces, activists reinforce visual and racial tropes as to who can be *seen* as suffering.

⁶⁰⁴Dauphinee, “The Politics of the Body in Pain”, 140.

Another photo taken from a 2008 WAT demonstration brings this concern into even sharper relief (see Figure 6.3)



Figure 6.3 WAT and Amnesty International Protest, January 11, 2007, Washington DC. Photo Credit: Reuters/Kevin Lamarque.

In it, an activist wearing an orange jumpsuit is splayed out at the bottom of a series of steps in front of the Supreme Court, their arms and legs partially akimbo, one leg propped up on a portion of a chair. It appears that they had been sitting in this chair, but then were tipped over backwards onto the steps. While a scattered group of police officers, tourists (one of whom is snapping a picture), and other activists look down on the action from a higher vantage point, three

white men dressed in all or mostly-black hold the activist down; one either side, their legs and arms are restrained by the men. Two of the men tower over the activist, leaning in close as one pours a white jug of water over their face.

Covered by a white cloth, we cannot see the expression of the activist as the water hits them, and, conceivably, they begin to choke and struggle. We can see, however, that their entire body is tensed in distress. Their hand nearest to the camera is flung out towards it, while their head seems to raise from the ground.

It is a striking, evocative image, and this is in large part because of what this scene is recalling and acting out; WAT is, here, drawing attention to waterboarding, and framing it as what it is – a torturous, violent action. The image is made all the more arresting because of its backdrop. The Supreme Court looms as a monument to the rule of law, while the fact of waterboarding exposes it to be a lie, at least as it applies, or does not apply, to the war on terror. Indeed, amongst the interventions offered by WAT's "tactical repertoire" of political action is piercing the veil of invisibility, secrecy, and silence that surrounds Guantánamo.⁶⁰⁵ The observers watching this scene, seemingly impassively, also make the viewer wonder: what are they thinking? How do they see this scene? What do they understand to be happening? By placing themselves, or selves that have been transformed into ciphers for Guantanamo's detainees, in such close proximity to spaces that play such a central role in the construction of national and legal imaginaries, activists underscore the Janus-faced nature of an American political and legal system that refuses to extend to detainees a viable political and/or legal existence. The re-enactments of activists thus not only

⁶⁰⁵Russo, "Witness Against Torture, Guantanamo and solidarity as resistance", 4.

bring home the violence of Guantánamo, but also brings the bodies of detainees – or, at least, as they live through activists - into a legal, political, and national space that has been denied to them, while also attempting to interpellate an audience of concerned citizens into an imagined community with detainees. It is also an especially evocative form of visual activism given the fact that Guantánamo Bay detainees have been legally barred from ever being transferred to the United States either to stand trial for their purported crimes or for medical treatment; this ban also extends to the building or modifying of prison facilities in the United States to house any detainees.⁶⁰⁶

As this chapter has made clear, images must be read with an eye towards both their ability to both disrupt and fix meaning. The scene in Figure 6.3 raises also the possibility that, in the reproduction of such scenes, the detainee body (and the male, Muslim body) is fixed in and to the pain it suffers. Further, in capturing a form of violence that is unique to the “war on terror” and thus uniquely borne by particular kinds of bodies⁶⁰⁷, means that it is also a body that is reified as suffering these specific forms of violence. As Dauphinee argues, “the drive to repetitively circulate the icon of the tortured body is to risk the circulation of the same logic that animated the production of pain in the first place.”⁶⁰⁸ The repetitive circulation of detainees as either the abject, bowed, anonymous figures captured in those first images, or as the body suffering a

⁶⁰⁶ “Background on Guantanamo Bay Prison”, Human Rights First, <https://www.humanrightsfirst.org/resource/background-guantanamo-bay-prison>, accessed May 20, 2019.

⁶⁰⁷ This is, of course, not to suggest that waterboarding has not been used in other contexts and against other groups. However, this practice emerged amidst the war on terror and thus was enacted against a particular group or groups – namely, “terrorists”.

⁶⁰⁸ Dauphinee, “The Politics of the Body in Pain”, 140.

form of violence that only it is targeted with, thus also contains the risk of circulating the logics that gave rise to these methods of incapacitation and torture. These logics revolve around encountering the detainee as not only inherently violent and culpable, but also as the material, bodily boundary in-between – in-between rights and rightlessness, in between law and illegality, and in between nations and whatever or whoever lies beyond their bounds. In their efforts, activists make detainees and the violence that they suffer visible; however, in the process, they may also work to visualize them *as* this figure. The re-representation of the violence of waterboarding also raises questions about the representability of pain and/or suffering. Pain, as Elaine Scarry argues, achieves part of its power through its inherent un-shareability.⁶⁰⁹ This renders any account of another’s pain crippled from the start, as there is an insurmountable gap that occurs between the one who suffers pain and the one who does not. This difficulty complicates representation as well, as the ways of representing pain and suffering are limited in such ways that they can only ever hint at or contain traces of the original violence.⁶¹⁰ This gap is further inscribed by photographic imagery which erases the specificity of the interior experiences of pain and elides the subject who actually experiences violence, so that bodies just become “aesthetic visual image[s]”, or referent objects or symbols of political violence.⁶¹¹

As I have argued elsewhere in this chapter and in this dissertation, there is a certain kind of ambiguity that clings to the state-produced images of

⁶⁰⁹ Elaine Scarry, *The Body in Pain: the Unmaking and Making of the World* (New York: Oxford University Press, 1985), 4.

⁶¹⁰ Dauphinee, “The Politics of the Body in Pain”, 143.

⁶¹¹ Dauphinee, “The Politics of the Body in Pain”, 140

Guantánamo and of detainees. This ambiguity, where it is not at all clear that these images would necessarily be categorized and encountered as depicting untoward violence or suffering, can be seen in the mere fact of their existence, where it was assumed (correctly or incorrectly) that they could be put in the service of a particular state narrative of what Guantánamo was and who it contained. Guantánamo images are just as likely to be seen as indictments against state, as they are to be seen as visual records of a moment in American political, legal, and military history, or as evidence of a deserved retribution against enemy bodies.

Again, these multiple possible interpretations may speak to the mutable nature of images (even those produced at the behest of the state), but they also indicate the extent to which Guantánamo's violences are mitigated by a host of factors; these include, but are not limited to, the sanctioning force of law and to the ways in which detainees have been discursively and visually constructed as non-grievable (and therefore, non-suffering). Non-grievability, in Butler's terms, is based in the ontological vulnerability and fragility of the body as not just a function of its corporeal materiality, but as a result of the ways in which the body is embodied, socially constituted, and *made* vulnerable. Bodies, in this sense, are "always given over to others ..." ⁶¹², a giving over which creates subjects that are "not quite recognizable as subjects, and 'lives' that are not quite – or indeed, are never – recognized as lives."⁶¹³ These lives that are not lives are both "destructible" and "ungrievable."⁶¹⁴

⁶¹² Butler, *Frames of War*, 2.

⁶¹³ Butler, *Frames of War*, 4.

⁶¹⁴ Butler, *Frames of War*, 31.

What does this mean for the work of activists, as they both understand the state-produced image as containing clear evidence of violence, and then re-represent that violence through its re-enactment? This is, then, not a question that is concerned with the ethics of looking at images of suffering, or whether such images aestheticize violence and anesthetize audiences. It is, simply put, a question of whether these images can be trusted to be received as images of suffering at all. I return here, once again, to consider the detainees as male Muslim bodies and all that this category entails. Orange jumpsuit-clad and hooded figures are already, always, read as Muslim bodies, and, as such, are configured and encountered as bodies unto which specific forms of violence can be done. While there is something potentially subversive about placing white and/or female bodies in these jumpsuits and hoods, this subversion is rooted in an understanding that these forms of violence can only be made non-sense of when they are detached from Muslim bodies. They are only made strange, made troubling, and made worthy of notice when they are in the wrong place, and enacted against the wrong bodies. This implies also, however subtly, that there is some place, and some bodies, to which violence more readily attaches; it also, once again, calls into question the legibility of both violence and suffering as experienced by certain kinds of bodies.

The question of ambiguity and the re-representation of violence lingers in another one of WAT's most visible practices. In Figure 6.4., the camera focuses on a lone activist. Wearing the requisite orange jumpsuit and black hood, the activist holds in gloved hands a poster of a detainee.

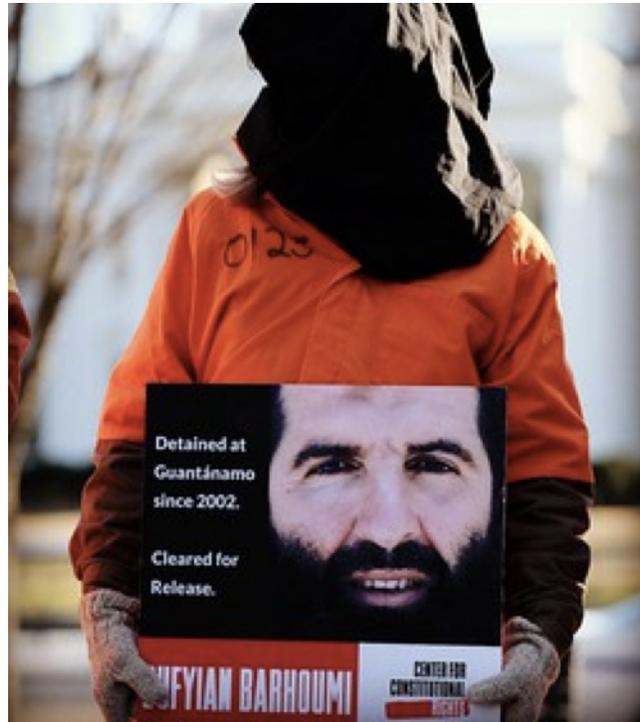


Figure 6.4 WAT Protest, Washington D.C., 2019. Photo Credit: Witness Against Torture

Although his face is clearly shown, his name is partly obscured: he is Sufyian Barhoumi, an Algerian citizen who, as the poster tells us, has been detained in Guantánamo since 2002, despite being cleared for release.⁶¹⁵ In Figure 6.5, the camera again focuses on a WAT activist wearing an orange jumpsuit and black hood holds a sign stating, “I am still waiting to go home.”

⁶¹⁵ Julie Tate and Missy Ryan, “The Trump era has stranded these five men at Guantanamo Bay”, *Washington Post*, https://www.washingtonpost.com/news/checkpoint/wp/2017/01/22/the-trump-era-has-stranded-these-five-men-at-guantanamo-bay/?utm_term=.aec2a0fd9804, accessed May 25, 2019.



Figure 6.5 WAT Protest, Washington D.C., 2019. Photo Credit: Witness Against Torture

The specificity of the “I” in this statement is unclear, as there is no name attached to it; conceivably, it is an “I” that represents all of Guantánamo’s indefinitely held prisoners. I would like to focus here, on the visual significance of the black hood. On the one hand, the black hood is a signifier of the degradation that accompanies anonymization. It is a symbol and materialization of that violence and erasure, as it blankets specificity and anonymizes suffering both symbolically and literally. This is, perhaps, why we see a WAT activist dressed as a hooded detainee, while holding a poster with a clearly identified prisoner on it. WAT is saying, in a way, that even while we may know their

names, and their faces, detainees still exist as anonymous, faceless, and indistinguishable, legally, politically, and imaginatively. There is, however, a slight complication to this framing. While at some point between their rendition to and arrival at Guantánamo, black hoods were thrust over detainees' heads, only a few images (not easily accessed or in wide circulation, and leaked by anonymous military sources) exist that document this event and no visual record exists of this becoming a practice in the camp.⁶¹⁶

Here, it can be argued that WAT's practices are not solely based on Guantánamo's images – they draw upon the stories of detainees, past and present, both inside and before the camp. They may also be done with an awareness of the apparatus of state violence that surrounds the war on terror, that travels from Afghanistan to Iraq, from Pakistan to Libya to Cuba, and that makes use of specific forms of violence. The black hood is also, then, a call to the Hooded Man, the tortured man captured in images of prisoner abuse at Abu Ghraib prison in Iraq (see Figure 6.6).

⁶¹⁶It should also be noted that no visual record exists indicating waterboarding ever occurred at Guantanamo. Of course, this may be due to state secrecy. However, no testimony provided by detainees seems to indicate that this torture occurred in the camp, although several detainees suffered this treatment prior to their rendition to Guantanamo.

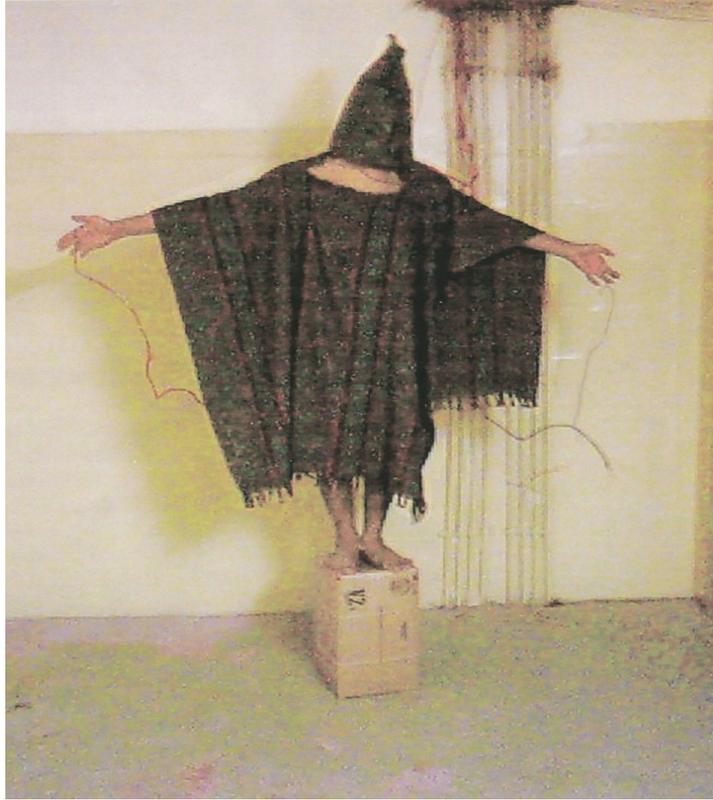


Figure 6.7 "Torture at Abu Ghraib", *The New Yorker*, April 30, 2004. Photo Credit: Anonymous military source

In donning black hoods, activists can be said to be drawing the permutations of state violence in the war on terror into closer proximity with each other, so that we may more accurately map the connections, overlaps, and disconnections between global state violence. This is apparent elsewhere in WAT's practices, as activists also work to draw connections between domestic and international practices of the American state: as one demonstrator stated: "just as the military occupies Afghanistan, so the police occupy our streets here, picking off brown and black bodies ... We challenge the white supremacy that underlies anti-black racism and Islamophobia both. We are here to break the

silence.”⁶¹⁷ In drawing visual and discursive links between the specific, yet related, forms of violence in Abu Ghraib, Guantánamo, and America, WAT’s practices can be said to expose the rationales that underpin modalities of state violence, to demonstrate how they rely upon and become legitimated through similar methods, and to understand how the specific contours of violence against one group have been etched, mapped, and enacted upon the bodies of others. However, there is also something to be said, or considered, about whether, in crafting and documenting a visual and material proximity between Guantánamo’s violences and the violence that occurs in other places (and is captured in other images in similar, but wholly distinctive ways), flattens rather than complicates the story of state violence and visual practices.

Guantánamo’s violences are not the same as Abu Ghraib’s, although they may be located on the same continuum, nor should they be seen as such. And, although they may be sustained by similar, if not the same, logics, they materialize in different ways, amongst a different set of circumstances, and with their own relation to both state violence and visual practices. In conflating these violences, and in creating a visual archive wherein the black hood becomes an icon and referent for this conflation, WAT activists risk eliding the ways in which state violence can be traced through its continuums and breaks, its excesses and its self-containment, and in what it makes visible and seeks to occlude. The root

⁶¹⁷Russo, “Witness Against Torture, Guantánamo, and Solidarity as Resistance”, 16. These connections have already been grasped upon by a number of scholars and activists, who highlight the ways in which American state violence in the “war on terror” was first crafted, refined, and enacted against and upon the black body. See, for example, Sohail Daulatzai, who argues that making distinctions between domestic forms of penal detention and what occurs in other “structures of imperial imprisonment” takes away from the fact that “the legibility of ‘terrorists’ as detainees, as well as their treatment within (Guantánamo Bay) is made possible through the domestic politics of race and incarceration”. Sohail Daulatzai, “Protect ya Neck: Muslims and the Carceral Imagination in the Age of Guantánamo”, *Souls* 9, no. 2 (2007): 139.

of this critique seems to lie in the extent to which getting violence *right* helps us know anything more about violence at all. I argue it is precisely in finding and accounting for the multiple, manifest, and hidden precision points of state violence that we can begin to break its frame, and its framings

Conclusion

Every image of the past that is not recognized by the present as one of its own concerns threatens to disappear irretrievably.⁶¹⁸

Walter Benjamin, *On the Concept of History*

I guess the wound needs a witness.⁶¹⁹

Ángel, *demonstrator with Witness Against Torture*

Counter-visual practices invert the gaze of the state, so long used to monitor certain groups and to forestall their ability either to be seen or to freely look. In America, this monitoring of the gaze can Jim Crow laws, where black men were subjected to both state and communal violence when they dared to “eyeball” – to look at – what or who they did not have the right to see (usually, white womanhood), to Abu Ghraib prison, where prisoners were warned by military officers: “don’t eyeball me!” There is a certain kind of disruptive power then, in looking when you are not meant to, when seeing has been denied, and when the power of the gaze shifts to reside in the looker and not the looked-

⁶¹⁸Walter Benjamin, “On the Concept of History.”, in Walter Benjamin, *Selected Writings Volume 4: 1938-1940*, edited by Howard Eiland and Michael W. Jennings, translated by Edmund Jephcott, 389-400 (Cambridge: The Belknap Press of Harvard University Press, 2006), 391.

⁶¹⁹Russo, “Witness Against Torture, Guantánamo, and Solidarity as Resistance”, 17.

upon.⁶²⁰ From this perspective, photography can be a uniquely effective tool of political resistance, while the state-mandated image can be up-ended entirely as it becomes woven into anti-state practices and the formation of new national and political identities. Moreover, such counter-visual practices indicate that even state-produced images can be discernable for other ways of interpreting detainees; WAT's practices read detainees "against the visual grain", and in doing so, they can be made to signify differently. State-produced images then may serve to be the ideal material through which activists can reference, reframe, and reject dominant political categories, while constructing their own visual archives.

While this may all be so, much of this chapter has proceeded on the apprehension that there is something not only in the state-produced image, but in images themselves, that complicates efforts to reinscribe their meanings and transform their effects. I return here, to an insight shared earlier in this chapter, where Leigh Raiford reminds us that, for some, multiple visual representations are always in intense dialogue with each other; one could add that they are, for some, always in conflict. Raiford was referring to the visual representation of black subjects, where black activists' attempts to transform horrific images of racial violence into tools of political possibilities occurred against a visual backdrop wedded to the perpetuation of the logics which sustained that violence. This argument seems particularly apt for Guantánamo's images, which contain subjects that are themselves constructed via a violent visuality and that function as a constituent and continuing *part of* state violence. The question that

⁶²⁰ Mirzoeff, "The Right to Look", 482.

still lingers is whether WAT's practices are able to rupture this complicity? Or, do they simply reiterate and recirculate the bases from which it springs and continues to draw strength? There is no definite, or correct answer to this question. What may bring us closer to an understanding of what is at stake in answering it, however, is a commitment to reading images in ways that contend both with what is made possible and what is circumscribed via its frame.

Conclusion

Take my blood.
Take my death shroud and
The remnants of my body.
Take photographs of my corpse at the grave, lonely.
Send them to the world,
To the judges and
To the people of conscience,
Send them to the principled men and the fair-minded.
And let them bear the guilty burden before the world,
Of this innocent soul.
Let them bear the burden before their children and before history,
Of this wasted, sinless soul,
Of this soul which has suffered at the hands of the “protectors of peace.”
“Death Poem”, by former detainee Jumah al Dossari⁶²¹

Selfishly, a worry that played upon my mind when I first began writing this dissertation some years ago was whether anyone would care about Guantánamo Bay, or its detainees, by the time this project was finished. In many ways, it seemed that both mainstream media and academic attention was waning; while the camp remains as a blot on the landscape of American piety, it

⁶²¹ Mark Falkoff, ed., *Poems from Guantanamo: The Detainees Speak* (Iowa City, University of Iowa Press, 2007). Jumah al Dossari is a Bahraini citizen who was held at Guantanamo Bay for more than five years. He was in solitary confinement for three years, and tried to kill himself twelve times while in custody.

has also become a permanent political and legal reality. Indeed, in light of U.S. President Donald Trump's stated intention in 2016 to "fill [Guantanamo] with bad guys",⁶²² military command have recently gone before Congress in order to request funding for facilities that reflect a commitment to not just indefinite but *permanent* detention. Amongst the proposals put forth were a new wheelchair-accessible prison, outfitted with a hospice-care cellblock. The oldest high-value detainee is Abd al Hadi al Iraqi. Just fifty-seven, and accused of being a senior al-Qaeda commander, al Iraqi "relies on a wheelchair and a walker after a series of emergency spine surgeries for a degenerative disc condition."⁶²³ As noted by lawyers for detainees, disabilities that are especially rife among high-value prisoners are a result of state-sponsored torture, occurring in CIA black sites around the world where "agents waterboarded some, rectally abused others and subjected them to cruel interrogation techniques such as hanging them by their wrists in shackles, confining them to cramped coffin-style boxes and keeping them naked in icy cold or overheated cells."⁶²⁴

So while the camp continues to cause consternation in some quarters, it is a fact to contend with nonetheless, and it is one that has been granted the legitimacy that comes with intensive legal and political bureaucratization and now, the prospect of permanence. At the same time, as I demonstrated in

⁶²² Fiona Keating, "Guantánamo Bay: Trump administration officials signal intent to refill Cuban prison with 'bad dudes'", *Independent*, July 9, 2017, accessed May 14, 2019, <http://www.independent.co.uk/news/world/Guantánamo-bay-latest-donald-trump-administration-plans-refill-cuba-prisoners-a7831576.html>

⁶²³ Carol Rosenberg, "Gitmo commanders make pitch for new prison with hospice-care wing for ex-CIA captives", *Miami Herald*, June 06, 2018, accessed July 11, 2019, <https://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article212610644.html>,

⁶²⁴ Rosenberg, "Gitmo commanders make pitch for new prison with hospice-care wing for ex-CIA captives".

Chapter 1, Guantánamo in many ways remains obfuscated, in part by that very bureaucratization and its melding of the semi-legal, legal, and extra-legal, but also by the intelligibility that cannot help but to attach to spaces of liminality, violence, and political, legal, and material death. Somewhere between phantasm and a pulsing wound, the camp resists full exposure, even as it reverberates in our political and legal consciousness.

This dissertation has been an attempt to, if not usher along this exposure, then to at least attend to the inscrutable moments, spaces, and practices that facilitate this closure. Paradoxically, this inscrutability is to be found in what is, or what seems to be, apparent. It is found in the visual – in the complex of visual politics and practices that undergird and direct the camp. Throughout the preceding chapters, and in building an archive of Guantánamo’s images, these images have been revealed as both affective and effective, as fusing state perspectives with ways of seeing Muslim bodies, and as riven by the ebb and flow of both law and state violence. This archive has also shown that Guantánamo’s images belong to the camp in ways that extend beyond time and place; in this sense, they cannot be anything other than they are. They are bound to the camp as the detainees is, as they emerge *from*, are embedded *within* and give further purchase *to* its governing logics and forms of violence.

The analyses developed in this dissertation open up further space within which the rationales of state violence in the “war on terror” can be conceptualized, beyond its categorizing work (“us” vs “them”, “civilized” vs “uncivilized”, “terror” vs “freedom”) and to the manner in which it is both sustained by and finds expression through the Muslim body. In Chapter 2, I argued that Guantánamo Bay detainees are framed and encountered via

assumptions of this figure, as a male Muslim body, as one that is differentially embodied, materially distinct, and ideologically-driven, ways which also shape the violence with which it is met. I offered a conceptual intervention in our understandings of how violence is enacted against marginalized bodies in order to who that the specific dread that attaches to the male Muslim body does so via an understanding of religion – specifically and especially, the Muslim religion – as being borne by and necessitating the use of the body.

“Take photographs of my corpse at the grave, lonely. Send them to the world”, detainee Jumah al Dossari writes. It is a desperate plea that speaks to the persistent and singular horror of indefinite detention, but it is also a supplication borne out of a particular relation to the visual, where Dossari’s lonely corpse, not *in* his grave, but *at* it, seeks relief through the force of the image and its circulatory effects. For Dossari, the photograph is an emancipatory tool, a way to speak truth against the hypocrisy of the American state, against the “judges and ... people of conscience, ...the principled men and the fair-minded.” And yet, as I have shown in Chapter 3, visual practices work also to sustain and circulate meanings about racialized and othered bodies. In Guantánamo, these are underwritten by a particular understanding of the detainee, as a male Muslim body, that bind the visual to the practices of state violence in particularly intractable ways. This body, and the ways in which it is both the subject of and made subject to state visual practices, pre-figures, pre-shapes, and permeates the state-mandated frame. Given this, and in spite of Dossari’s hope, we are left wondering if his plea can ever be heard, if his corpse can be seen as lonely, if his grave can be discerned, if his death may be perceived at all.

The arguments undertaken in this dissertation also point towards the possibility of further understanding how visual practices function as technologies of state violence. This occurs not only through the ways in which they reiterate and disseminate state perspectives, but also through the political logics and practices that are produced and/or rationalized via visual apparatuses. This does not mean that this relationship is always so tidy – as I demonstrated in Chapters 4, visual practices enmesh with the legal bureaucracy of the detention camp, which on the one hand seeks to make state force highly visible (through a visual archiving of its detention processes), and on the other attempts to obscure it (through visual framings that disappear troublesome detainee bodies and violent practices). Legal categories, findings of (il)legality, and processes of legal inclusion and exclusion are legitimated through these visual practices, as are the boundaries of what and who can be made recognizable both within the visual frame and within law. Legal processes, state violence, and visual practices thus share a kinship and affinity, wherein each functions to guarantee the legibility and authority of the other.

Tracing these entanglements has analytical implications for understanding the relationship between law, visual practices, and how state violence is read against certain kinds of bodies. It also allows us to see moments when state-produced images intervene on behalf of and alongside the state to resolve what counts *as* violence, *who* counts as violated, and the extent to which either violence or the violated may *be seen* at all. As Chapter 5 demonstrated, these interventions also have material effects, as state visual practices transect hunger-striking detainee bodies in order to work out the rationales and limits of its own violence. This argument has broader implications for further understanding the entangled,

complex, and subtle relationship extra-ordinary state violence holds to not only the visual, but also to the range of quotidian, seemingly mundane, and yet deeply implicated practices it relies upon. In Chapter 6, I examined the extent to which the re-representation of Guantánamo images by activists were similarly implicated. I argued that counter-visual practices can work to further subjugate those who are already constructed via a violent visuality, especially when it images are used not merely as a way to document violence, but rather as a tool and function of state violence.

It is a distasteful but unavoidable truth about the life of a researcher that it is a rather mercenary line of work. Even when writing about terrible and difficult topics, one ear is attuned to the voices of the voiceless while the other is inclined towards those bits of information that will lend itself to one's work, even when this knowledge only comes about because of another's suffering. So it was a moment of bitter serendipity that at the precise moment of writing this conclusion, a story about a Guantánamo detainee known as Abu Zubaydah appeared in the New York Times. In early December of 2019, the NYT published a series of self-portraits drawn by Abu Zubaydah, depicting what he says are the various forms of torture he endured at a CIA black site in Thailand for over four years. These drawings were published in a report entitled "How America Tortures" compiled by his lawyer Mark P. Denbeaux.⁶²⁵ I would like to close this dissertation with a meditation on these drawings, bearing in mind what has been pieced together in this project as a visual archive of state violence and Muslim bodies, and what impact this archive can have on how we frame, comprehend,

⁶²⁵ Mark P. Denbeaux et al., "How America Tortures", *Seton Hall Law Center for Policy and Research*, December 2019.

and try to come to terms with moments when extra-ordinary violence meets extra-ordinary bodies.

These drawings are, simply put, horrifying. In “putting flesh, bones and emotion”⁶²⁶ on the sanitized and redacted versions of enhanced interrogations techniques offered by the state⁶²⁷, Abu Zubaydah shows in stark and vivid details the realities of state torture. Reviewed and cleared for release by military censors, with one notable redaction, Zubaydah’s drawings are not art (artwork done by detainees is now banned from being released from the camp), but are rather legal documents, produced for his legal team and their compilation of a report called “How American Tortures”.⁶²⁸ Zubaydah has never been charged with a terrorism-related charge, nor are there any plans to do so according to recent court documents. Moreover, intelligence has concluded that he was never a member of al Qaeda, nor did he have advance knowledge about the 9/11 attacks. Nevertheless, he is currently held at the camp’s most intensely regulated prison, Camp 7.⁶²⁹

In “Waterboarding”, Abu Zubaydah depicts himself naked and secured to a gurney; one of his legs has an open wound on it, but a strap is tied tightly across it nonetheless. It is a crude rendering, but even so, it is possible to see that his body is tensed in pain – his right foot is extended in a paroxysm, his palms open and reaching out and upwards, as water is poured over his head. A close-

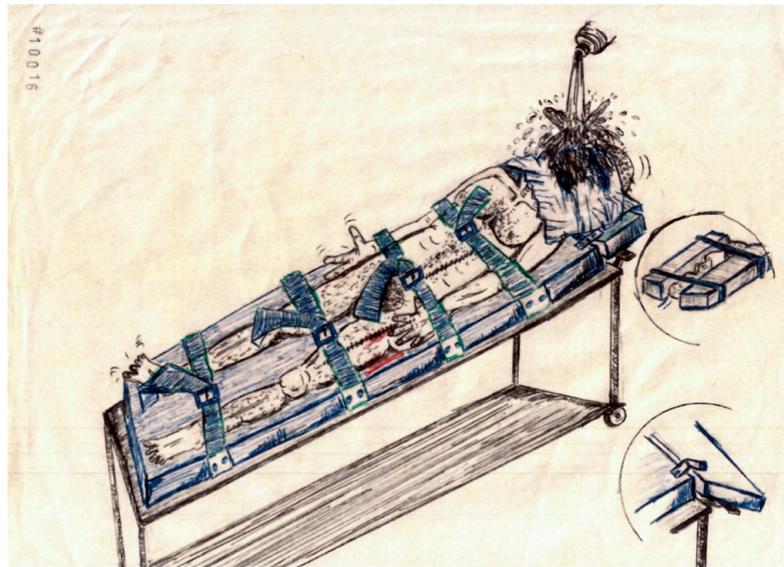
⁶²⁶ Carol Rosenberg, “What the C.I.A.’s Torture Program Looked Like to the Tortured”, *New York Times*, December 04, 2019, accessed December 06, 2019, <https://www.nytimes.com/2019/12/04/us/politics/cia-torture-drawings.html>.

⁶²⁷ Rosenberg, “What the C.I.A.’s Torture Program Looked Like to the Tortured”.

⁶²⁸ Denbeaux et al., “How America Tortures”.

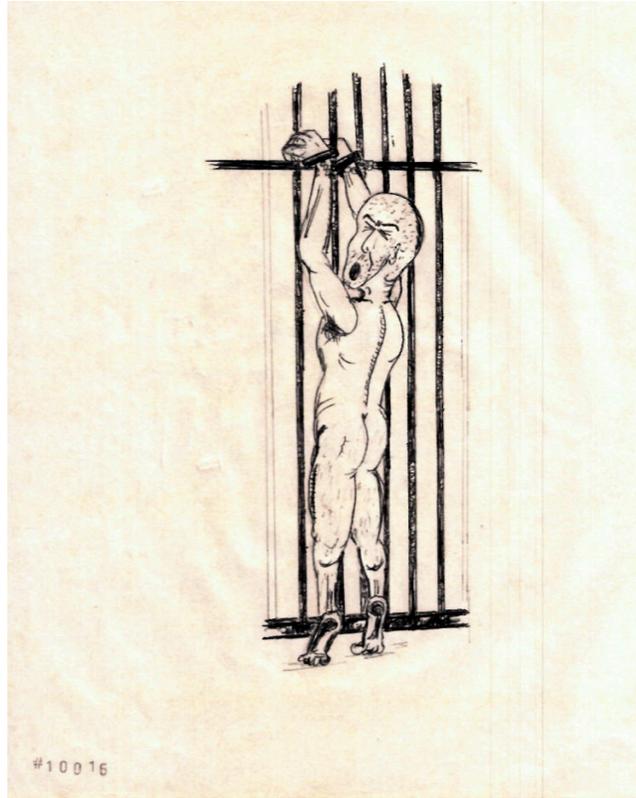
⁶²⁹ Rosenberg, “What the C.I.A.’s Torture Program Looked Like to the Tortured”.

up rendering of the hinges on the headboard of the gurney he is strapped to is included, indicating that military officers could lower his head to place it at an even more inclined angle. Abu Zubaydah is the first person known to be waterboarded by the C.I.A., and his lawyers state that he has undergone it 83 times.⁶³⁰

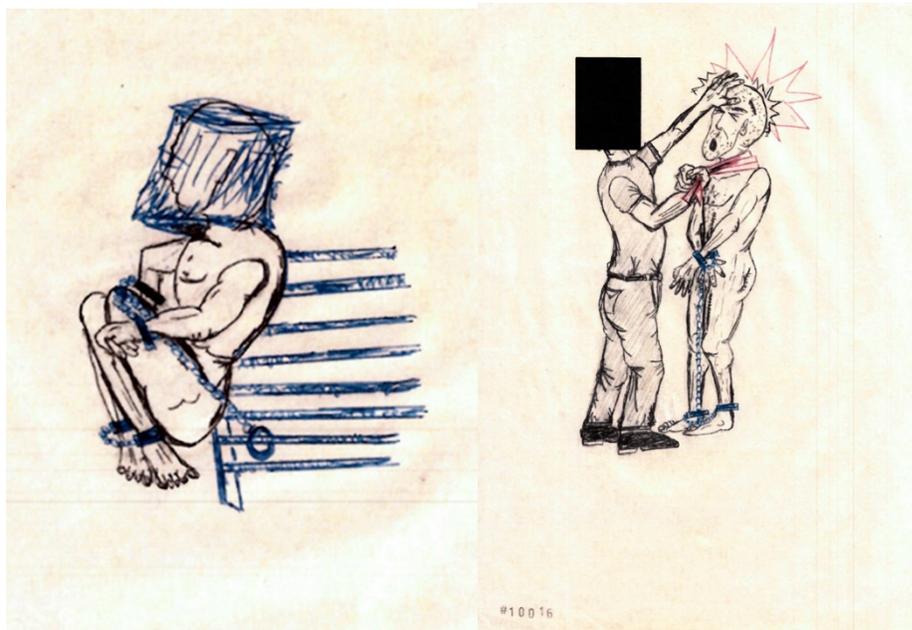


“Waterboarding.” Image courtesy of Mark P. Denbeaux

⁶³⁰Rosenberg, “What the C.I.A.’s Torture Program Looked Like to the Tortured”.

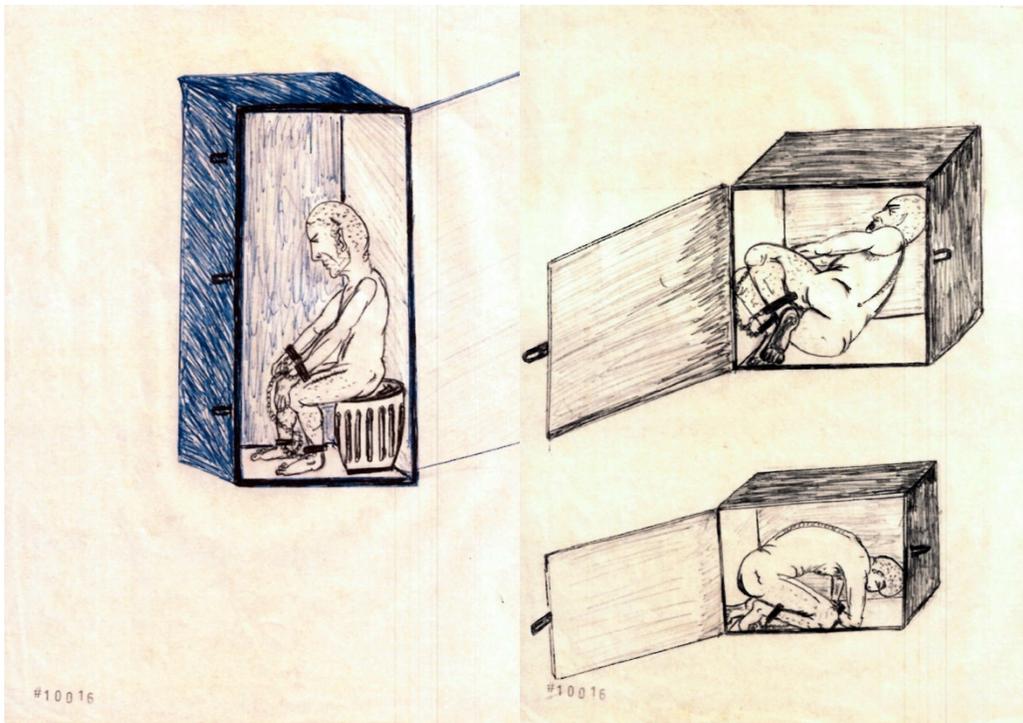


"Stress Positions." Image courtesy of Mark Denbeaux



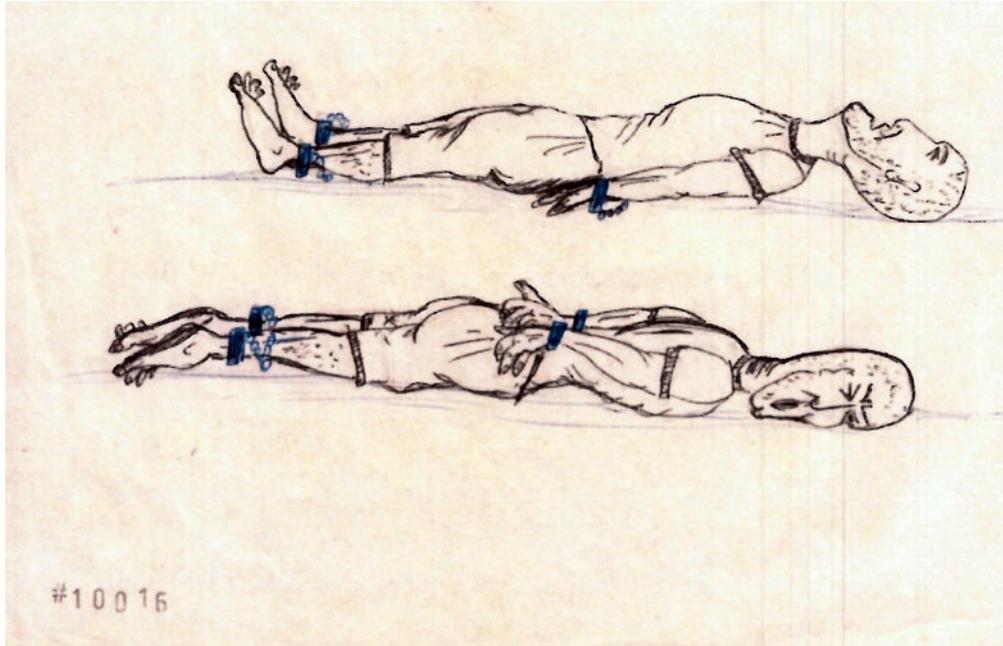
"Short Shackling." Image courtesy of Mark Denbeaux "Walling." Image courtesy of Mark Denbeaux

In "Stress Positions", Abu Zubaydah depicts himself with his mouth open in a howl of pain, as his wrists are cuffed to a bar above his head in such a way as to force him to stand on his tiptoes. "Short Shackling" shows Abu Zubaydah with a hood covering his head, shackled in a fetal position, his ankles and wrists bound together and tied to a bar. In "Walling", a captor with a redacted black box covering his face is depicted smashing Abu Zubaydah's head against a wall, as a towel is wrapped tightly around his neck.



"Large Confinement Box." Image courtesy of Mark Denbeaux

"Small Confinement Box." Image courtesy of Mark Denbeaux



Sleep Deprivation. Image courtesy of Mark Denbeaux

In “Large Confinement Box”, Abu Zubaydah is nude and shackled, seated on a bucket that he recounted was also meant to function as a toilet, and contained within a large box. “I found myself in total darkness,” he said. “The only spot I could sit in was on top of the bucket, for the place was very tight.” He described this experience as being confined in a “wooden box that looked like a wooden casket”, and shares that guards first introduced him to it by announcing “from now on, this is going to be your home.” In “Small Confinement Box”, Abu Zubaydah is again nude and shackled, crouched in a fetal position within a small square box. He stated: “as soon as they locked me up inside the box, I tried my best to sit up, but in vain, for the box was too short. I tried to take a curled position but to no vain, for it was too tight.”⁶³¹

⁶³¹Mark P. Denbeaux et al., “How America Tortures”.

Finally, in “Sleep Deprivation”, Abu Zubaydah draws himself twice. He is clothed this time, but still shackled at his wrists and feet. He is stretched out in one image on his back and in the other on his stomach. In both positions, his facial expression betrays the pain and discomfort that came with the torture method called “horizontal sleep deprivation”, where he was left for 11 days at a time, shackled flat on the ground in positions that it made it impossible to sleep. This method of sleep deprivation was described by the C.I.A. as “focusing the detainee’s attention on his current situation rather than ideological goals.”⁶³²

These drawings are, in the most visceral sense, an exercise in counter-visibility, as they are a further visual archiving of state violence and torture. They both invert and look back at the gaze of the state, where the eye of the tortured is turned both to his tormenter and to his own violated body. This is “What the C.I.A.’s Torture Program Looks like to the Tortured”, as the New York Times article that first ran this story was entitled. This is what torture both looks and feels like to the violated. These are the meanings about such violence that the one on the receiving end of these violations wants to convey about them; among them are the vulnerability and powerlessness of a naked, shackled, tormented body made subject to power in these ways. In this sense, we are drawn into the images in ways that are precluded by the state-mandated image and all of its machinations.

At the same time, these images are also punctuated by the “complex system of permission and prohibition”⁶³³ that underlies state visual practices,

⁶³² Rosenberg, “What the C.I.A.’s Torture Program Looked Like to the Tortured”.

⁶³³ Avery F. Gordon, *Ghostly Matters: Haunting and the Sociological Imagination* (Minneapolis: University of Minnesota Press, 1997), 17.

where even these most personal and intimate of depictions are constructed, framed, and channeled through and by flows of power and authority that depend as much on making visible as they do on keeping from sight. Hence the black box over the head of the captor's head in "Walling", hence the redactions and bureaucratic processes Abu Zubaydah's images were forced to go through before they could leave the camp, hence the fact that these images were ever allowed to be released at all.

There are questions that linger in the wake of the analytical and conceptual interventions offered by this dissertation and its drawing together of visual practices, state violence, and the meanings (both material and representational) that are ascribed and transcribed onto male Muslim bodies. One of those that persists is what remains of the detainee and his body, as he is made both visible and invisible, and the surface upon which state violence is captured, mapped, and delimited? This is a question that hints at larger considerations around what may appear to be a visual stranglehold this project leaves us with, where we are precluded from ever seeing male Muslim bodies absent the violence that is read through and against them. And yet, the point of this project was never to find a way out of these entanglements. Rather, it was to draw closer to them, to lean up against them, to attend to their moments and spaces of inextricability as well as to their cleavages and ruptures, to their coercive force and their more subtle iterations, in order to better name the practices and logics of state violence and the meanings it both draws upon and leaves in its wake.

Bibliography

- Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*. Translated by Daniel Heller-Roazen. Stanford: Stanford University Press, 1998.
- Means Without End: Notes on Politics*. Translated by Vincenzo Binetti and Cesare Casarino. Minnesota: University of Minnesota Press, 2000.
- – – *State of Exception*. Translated by Kevin Attell. Chicago: Chicago University Press, 2005.
- Ahmad, Muneer I. "Resisting Guantánamo: Rights at the Brink of Dehumanization." *Northwestern University School of Law* 103, no. 4 (2009): 1684-1762.
- Anden-Papadopoulos, Kari. "The Abu Ghraib torture photographs: news frames, visual culture, and the power of images". *Journalism* 9, no. 1 (2008): 5-30.
- Anderson, Patrick. "There Will be No Bobby Sands in Guantanamo Bay", *PMLA* 124, no.5 (2009): 1729-1736.
- Andriolo, Karin. "The Twice-Killed: Imagining Protest Suicide", *American Anthropologist* 108, no. 1 (2006): 100-113.
- Annas, George J. "American Vertigo: 'Dual Use', Prison Physicians, Research, and Guantanamo". *Case Western Reserve Journal of International Law* 43, no. 3 (2011): 631-650.
- – –. "Hunger Strikes at Guantánamo – Medical Ethics and Human Rights in a 'Legal Black Hole'". *New England Journal of Medicine* 355, no. 13 (2006): 1377-1382.
- Annas, George J., Sondra S. Crosby, and Leonard H. Glantz. "Guantanamo Bay: A Medical Ethics-Free Zone?". *New England Journal of Medicine* 369 (2013): 101-103.
- Aradau, Claudia. "Law Transformed: Guantanamo and the 'Other' Exception." *Third World Quarterly* 28, no. 3 (2007): 489-501.
- Arendt, Hannah. *On Revolution*. Harmondsworth: Penguin, 1990.

Aristotle, *Poetics*. Translated by Stephen Halliwell. London: Duckworth, 1987.

Arjana, Sophia Rose. *Muslims in the Western Imagination*. New York: Oxford University Press, 2015.

Asad, Talal. *Genealogies of Religion: Disciplines and Reasons of Power in Christianity and Islam*. Baltimore: The John Hopkins University Press, 1993.

--- "The Idea of an Anthropology of Islam". *Qui Parle* 12, no. 2 (2009): 1-30.

Azoulay, Ariella. *The Civil Contract of Photography*. New York: Zone Books, 2008.

--- *Civil Imagination: A Political Ontology of Photography*. New York: Verso, 2012.

--- "Regime-Made Disaster: On the Possibility of Nongovernmental Viewing". In *Sensible Politics: The Visual Culture of Nongovernmental Politics*, edited by Yates McKee and Meg McLagan, 29-41. New York: Zone Books, 2012.

Bargu, Banu. "The Silent Exception: Hunger-striking and Lip-Sewing." *Law, Culture and the Humanities* 00, 0 (2017): 1-28.

--- *Starve and Immolate: The Politics of Human Weapons*. New York: Columbia University Press, 2014.

Barthes, Roland. *Camera Lucida: Reflections on Photography*. New York: Hill and Wang, 2010.

--- *The Eiffel Tower and Other Mythologies*. Translated by Richard Howard. Berkeley: University of California Press, 1997.

Batchen, Geoffrey, Mick Gidley, Nancy K. Miller, and Jay Prosser, eds. *Picturing Atrocity: Photography in Crisis*. Chicago: Chicago University Press, 2012.

Beier, J. Marshall and David Mutimer. "Pathologizing Subjecthoods: Pop Culture, Habits of Thought, and the Unmaking of Resistance Politics at Guantanamo Bay". *International Political Sociology* 8, no. 3 (2014): 311-323.

Benjamin, Walter. "A Little History of Photography". In *Selected Writings*, edited by Michael William Jennings, 507-530. Cambridge: Harvard University Press, 2002.

— — — "The Author as Producer", in *Thinking Photography*, edited by Victor Burgin, 15-31. London: Macmillan, 1982.

— — — "On the Concept of History." In *Walter Benjamin, Selected Writings Volume 4: 1938-1940*, edited by Howard Eiland and Michael W. Jennings, translated by Edmund Jephcott, 389-400. Cambridge: The Belknap Press of Harvard University Press, 2006.

Berger, John. *About Looking*. London: Writers and Readers, 1980.

— — — "Appearances". In *Another Way of Telling*, edited by John Berger and Jean Mohr, 83-129. New York: Pantheon Books, 1982.

— — — *Ways of Seeing*. London: Penguin Books, 1973.

Biber, Katherine. *Captive Images: Race, Crime, Photography*. New York: Routledge, 2007.

Butler, Judith. *Frames of War: When is Life Grievable*. London: Verso, 2010.

— — — "Photography, War and Outrage." *PMLA* 120, no. 3 (2005): 822-827.

— — — *Precarious Life: The Powers of Mourning and Violence*. New York: Verso, 2004.

— — — "Sex and Gender in Simone de Beauvoir's *Second Sex*". *Yale French Studies* 72, 1986: 35-49.

— — — "Sexual Politics, Torture, and Secular Time," *The British Journal of Sociology* 59, no. 1 (2008): 1-23.

Casper, M.F. and Jeffrey T. Child. "Embedded Reporting and Audience Response: Parasocial Interaction and Percieved Realism in Embedded Reporting from the Iraq War on Television News." In *War and the Media: Essays on News Reporting, Propoganda, and Popular Culture*, 205-222, edited by Paul M. Haridakis, Barbara S. Hugenberg, and Stanley T. Wearden. North Carolina: McFarland & Company, 2009.

- Chesney, Robert, Larkin Reynolds, and Benjamin Wittes, "The Emerging Law of Detention: The Guantánamo Habeas Cases as Lawmaking", *U of Texas Law Public Research Paper* 195, 1-172.
- Chouliaraki, Lilie. *Spectatorship of Suffering*. London: Sage Publications, 2006.
- Clark, Andrew, Jon Prosser, and Rose Wiles. "Ethical issues in image-based Research." *Arts & Health* 2, no.2 (2010): 81-93.
- Clark, Andrew. "Haunted by images? Ethical moments and anxieties in visual research." *Methodological Innovations Online* 8, no.2 (2013): 68-81.
- Coleman, Rebecca. "The Becoming of Bodies: Girls, media effects and body-image", *Feminist Media Studies* 8, no. 2 (2008): 163-179.
- Connell, Raewyn. *Masculinities*. Berkeley: University of California Press, 1995.
- Crossley, N. "Merleau-Ponty, the Elusive Body and Carnal Sociology." *Body & Society* 1, no.1 (1995): 43-63.
- Daulautzai, Sohail. "Protect ya Neck: Muslims and the Carceral Imagination in the Age of Guantánamo." *Souls* 9, no. 2 (2007): 132-147.
- Dauphinee, Elizabeth. "The Politics of the Body in Pain: Reading the Ethics of Imagery." *Security Dialogue* 38, no. 2 (2007): 139-155.
- Dayan, Colin. "Legal Terrors". *Representations* 92, no. 1 (2005): 42-80.
- de Beauvoir, Simone. *The Second Sex*. Translated by Constance Borde and Sheila Malovany-Chevallier. New York: Random House, 2009.
- Denbeaux, Mark, Joshua Denbeaux, David Gratz, and John Gregorek. "Report on Guantánamo Detainees through Analysis of Department of Defense Data." *Seton Hall Law Review* 41, no. 4 (2011): 1-28.

- Dunford, David Taylor. "Legal nominalism: A reconceptualization of post-9/11 legal complexes." *International Journal of Law, Crime and Justice* 47 (2016): 1-11.
- "Security sovereignty and the pre-emption of low-risk detainees: A look into 'battlelab' torture techniques used at Guantanamo Bay." *International Journal of Law, Crime and Justice* 50 (2017): 12-21.
- Douzinas, Costas. *The End of Human Rights: Critical Legal Thought at the Turn of the Century*. London: Hart Publishing, 2000.
- Edwards, Justin D. *Postcolonial Literature: A Reader's Guide to Essential Criticism*. New York: Palgrave Macmillan, 2008.
- Fanon, Frantz. *Black Skin, White Masks*. New York: Grove Press, 2008.
- Fehrenbach, Heide and Davide Rodogno. "'A horrific photo of a drowned Syrian child'": Humanitarian photography and NGO media strategies in historical perspective". *International Review of the Red Cross* 97, no. 900 (2015): 1121-1155.
- "Introduction – The Morality of Sight: Humanitarian Photography in History." In *Humanitarian Photography: A History*, edited by Heide Fehrenbach and Davide Rodogno, 1-21. Cambridge: Cambridge University Press 2015).
- Feldman, Allen. *Formations of Violence: The Narrative of the Body and Political Terror in Northern Ireland*. New York: University of Chicago Press, 1991.
- Falkoff, Mark, ed. *Poems from Guantanamo: The Detainees Speak*. Iowa City, University of Iowa Press, 2007.
- Foucault, Michel. *The History of Sexuality, Volume One: an Introduction*. New York: Random House, 1981.

- Fox, Julia R. and Byungho Park. "The 'I' of Embedded Reporting: An Analysis of CNN Coverage of the 'Shock and Awe' Campaign." *Journal of Broadcasting and Electronic Media* 50, no. 1 (2006): 36-51.
- Fusco, Coco. "Racial Time, Racial Marks, Racial Metaphors". In *Only Skin Deep. Changing Visions of the American Self*, edited by Coco Fusco and Brian Wallis, 13-51. New York: International Center of Photography, 2003.
- Gordon, Avery F. *Ghostly Matters: Haunting and the Sociological Imagination*. Minneapolis: University of Minnesota Press, 1997.
- Grant, Kevin. "The limits of exposure: atrocity photographs in the Congo reform campaign". In *Humanitarian Photography: A History*, edited by Heidi Fehrenbach and Davide Rodogno, 64-89. Cambridge: Cambridge University Press, 2015.
- Greenberg, Karen J. *The Least Worst Place: Guantánamo's First 100 Days*. New York: Oxford University Press, 2010.
- Gregory, Derek. "The black flag: Guantánamo bay and the space of exception." *Geografiska Annaler: Series B, Human Geography* 88, no. 4 (2006): 405-427.
- — — "Dis/Ordering the Orient: Scopic Regimes and Modern War". In *Orientalism and War*, edited by Tarak Barkawi and Keith Sthanski, 151-176. New York: Columbia University Press, 2012.
- — — "Palestine and the War on Terror", *Comparative Studies of South Asia, Africa and the Middle East* 24, no. 1 (2004): 183-195.
- Grosz, E. A. *Space, time, and perversion: essays on the politics of bodies*. New York: Routledge, 1995.
- Hall, Stuart. "Introduction." In *Representation: Cultural Representations and Signifying Practices*, edited by Stuart Hall, 1-13. Thousand Oaks: Sage Publication, 1997.
- Hage, Ghassan. "The Affective Politics of Racial Mis-interpellation". *Theory, Culture & Society* 27, no. 7/88 (2010): 112-129.
- — — "Multiculturalism and the Ungovernable Muslim." In *Essays on*

- Muslims and Multiculturalism*, edited by Raimond Gaita. Melbourne: Text Publishing, 2011),
- Haraway, Donna. *Simians, Cyborgs, and Women: The Reinvention of Nature*. London: Free Association Books, 1991.
- Hariman, Robert. "Watching War Evolve: Photojournalism and New Forms of Violence". In *The Violence of the Image: Photography and International Conflict*, edited by Liam Kennedy and Caitlin Patrick. London: I.B. Tauris, 2014, 139-163.
- Hartman, Saidiya V. *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America*. New York: Oxford University Press, 1997.
- Hayles, N. Katherine. *How We Became Posthuman*. Chicago: University of Chicago Press, 1999.
- Hight, Eleanor and Gary Sampson, eds. *Colonialist Photography: Imag(in)ing Race and Place*. New York: Routledge, 2002.
- Holmes, Stephen. *The Matador's Cape: America's Reckless Response to Terror*. New York: Cambridge University Press, 2007.
- Howell, Alison. "Victims or Madmen? The Diagnostic Competition over 'Terrorist' Detainees at Guantanamo Bay." *International Political Sociology* 1, no. 1 (2007): 29-47.
- Howland, Corinna. "To Feed or Not to Feed: Violent State Care and the Contested Medicalization of Incarcerated Hunger-Strikers in Britain, Turkey and Guantánamo Bay". *New Zealand Sociology* 28, no. 1 (2013): 101-116.
- Huskey, Kristine and Stephen N. Xenakis, "Hunger Strikes: Challenges to the Guantánamo Detainee Health Care Policy", *Whittier Law Review* 30, no. 783 (2009): 783-807.
- Ibrahim, Yasmin and Anita Howarth. "Hunger strike and the force-feeding chair: Guantánamo Bay and corporeal surrender." *Society and Space* 37, no.2 (2019): 294-312.

Irwin, Catherine. "Framing War: The Politics of Embedded Reporting in Brian Turner's *Here Bullet*." *Pacific Coast Philology* 50, no. 1 (2015): 103-126.

Jay, Martin. *Downcast eyes: The Denigration of Vision in Twentieth-Century French Thought*. Berkeley: University of California Press, 1993.

— — — "That Visual Turn." *Journal of Visual Culture* 1, no. 1 (2002): 87-92.

Jenks, Chris. "The Centrality of the Eye in Western Culture". *Visual Culture*, edited by Chris Jenks, 1-25. Routledge: New York, 1995.

Johns, Fleur. "Guantánamo Bay and the annihilation of the exception." *European Journal of International Law* 16, no. 4 (2005): 613-635.

— — — *Non-Legality in International Law: Unruly Law*. Cambridge, Cambridge University Press, 2013.

Kaplan, Amy. "Where is Guantánamo?" *American Quarterly* 57, no. 3 (2005): 831-858.

Kahf, Mohja. *Western Representations of the Muslim Woman: From Termagant to Odalisque*. Austin: University of Texas Press, 1999.

Khalid, Maryam. "Gender, orientalism and representation of the 'Other' in the War on Terror". *Global Change, Peace & Security* 23, no. 1 (2011): 15-29.

Krishnaswamy, Revathi. *Effeminism: The Economy of Colonial Desire*. University of Michigan Press, 1999.

Levin, Brian. "Military Tribunals or Civilian Prosecution: The Dilemma of Unlawful Enemy Combatants." *Global Crime* 7, no.3/4 (2006): 379-406.

- Lincoln, Martha. "Black Hole, Gulag, Country Club: A Map of Guantanamo Bay." *Socialism and Democracy* 21, no. 2 (2007): 117-122
- Lister, Martin and Liz Wells. "Seeing Beyond Belief: cultural studies as an approach to analysing the visual." In *Handbook of visual analysis*, eds. Theo van Leeuwen and Carey Jewitt, 69-91. London: Sage, 2004.
- Kanaboshi, Naoki. "Prison Inmates' Right to Hunger Strikes: Its Use and Its Limits Under the U.S. Constitution." *Criminal Justice Review* 1, no. 19 (2014): 121-139.
- Kaplan, Amy. "Where is Guantanamo?" *American Quarterly* 57, no.3 (2005): 831-858.
- Khalili, Laleh. *Time in the Shadows, Time in the Shadows: Confinement in Counterinsurgencies*. Stanford: Stanford University Press, 2013.
- Koenig, Alexa. "From Man to Beast, Social Death at Guantánamo." In *Extreme Punishment: Comparative Studies in Detention, Incarceration, and Solitary Confinement*, edited by Alexa Koenig and Keremat Reiter, 220-241, London: Palgrave, 2015.
- Lincoln, Martha. "Black Hole, Gulag, Country Club: A Map of Guantanamo Bay". *Socialism and Democracy* 21, no. 2 (2007): 117-122.
- Linfield, Susie. *The Cruel Radiance: Photography and Political Violence*. Chicago: The University of Chicago Press, 2010.
- Machin, Amanda. "Hunger Power: the Embodied Protest of the political hunger strike." *Interface* 8, no. 1 (2016): 157-180.
- Margulies, Jospheh. *Guantánamo and the Abuse of Presidential Power*. New York: Simon & Schuster, 2006.
- Malinowski, Tom. "Restoring Moral Authority: Ending Torture, Secret Detention, and the Prison at Guantánamo Bay." *The Annals of the American Academy of Political and Social Science* 618, no.1 (2008): 148-159.

- Manderson, Desmond. "Introduction: Imaginal Law", in *Law and the Visual: Representations, Technologies, and Critique*, edited by Desmond Manderson, 3-23. Toronto, University of Toronto Press, 2018.
- McClintock, Anne. "Paranoid Empire: Specters from Guantánamo and Abu Ghraib." *Small Axe* 13, no.1 (2009): 50-74.
- Merleau-Ponty, Maurice. *The Phenomenology of Perception*. Translated by Colin Smith. London: Routledge, 1962.
- Michaelsen, Scott and Scott Cutler Shershow. "Beyond and before the law at Guantánamo." *Peace Review* 16, no. 3 (2004): 293-303.
- Miller, Ian. *A History of Force Feeding: Hunger Strikes, Prisons and Medical Ethics, 1909–1974*. Basingstoke: Palgrave Macmillan, 2016.
- Minca, Claudio. "The Return of the Camp." *Progress in Human Geography* 29, no. 4 (2005): 405-412.
- Mirzoeff, Nicholas. "The Right to Look". *Critical Inquiry* 37, no. 3 (2011): 473-496.
- — — *The Right to Look: A Counterhistory of Visuality*. Durham: Durham University Press, 2011.
- — — *Watching Babylon: The War in Iraq and Global Visual Culture*. New York: Routledge, 2005.
- Mitchell, W.J.T. "Showing Seeing: A Critique of Visual Culture." *Journal of Visual Culture* 1, no. 2 (2002): 165-181.
- Moeller, Susan D. *Compassion Fatigue: How the Media Sell Disease, Famine, War, and Death*. London: Routledge, 1999.
- Mulla, Sameena. "There is No Place Like Home: The Body as the Scene of the Crime in Sexual Assault Intervention." *Home Cultures* 5, no. 3 (2008): 301-325.
- — — *The Violence of Care: Rape Victims, Forensic Nurses, and Sexual Assault*

Intervention. New York: NYU Press, 2014.

Ortega, Mariana. "Photographic Representation of Racialized Bodies: Afro-Mexicans, the Visible, and the Invisible." *Critical Philosophy of Race* 1, no.2 (2013): 163-189.

Paik, A. Naomi. "Representing the Disappeared Body: Videos of Force-Feeding at Guantanamo". *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 9, no. 3 (2018): 423-448.

Patai, Raphael. *The Arab Mind*. New York: Charles Scribner's Sons, 1973.

Parkins, Wendy. "Protesting like a Girl: Embodiment, Dissent and Feminist Agency." *Feminist Theory* 1, no. 1 (2000): 59-78.

Pfau, Michael, Michel M. Haigh, Lindsay Logsdon et al. "Embedded Reporting During the Invasion and Occupation of Iraq: How the Embedding of Journalists Affects Television News Reports." *Journal of Broadcasting & Electronic Media* 49, no. 4 (2005): 468-487.

Pink, Sarah. "Advances in Visual Methodology: An Introduction". In *Advances in Visual Methodology*, edited by Sarah Pink, 3-17. California: Sage Publications, 2012.

Puar, Jasbir. "Abu Ghraib and U.S. Sexual Exceptionalism." *Works and Days* 29 (2011): 115-142.

Puar, Jasbir and Amit Rai. "Monster, Terrorist, Fag: The War on Terrorism and the Production of Docile Patriots." *Social Text* 20, no. 3 (2002): 117-148.

Pugliese, Joseph. "Asymmetries of terror: visual regimes of racial profiling and the shooting of Jean Charles de Menezes in the context of the war in Iraq."

Borderlands, 5, no. 1 (2006):

- – – “Biotypologies of Terrorism.” *Cultural Studies Review* 14, no.1 (January 2008): 49-66.
- – – “Compulsory Visibility and the Infralegality of Racial Phantasmata.” *Social Semiotics* 19, no. 1 (2009): 9-30.
- – – “Reflective Indocility: Tariq Ba Odah's Guantánamo Hunger Strike as a Corporeal Speech Act of Circumlocutionary Refusal”, *Law and Literature* 28, no. 2 (2016): 117-138.

Purgar, Kresimir. “Coming to Terms with Images: Visual Studies and Beyond”, in *W.J.T. Mitchell's Image Theory: Living Pictures*, edited by Kresimir Purgar, 59-83. London: Taylor & Francis, 2016.

Purnell, Kandida. “Body Politics and Boundary Work: Nobodies on Hunger Strike at Guantanamo Bay (2013-2015).” *Alternatives: Global, Local, and Political* 39, no. 4 (2014): 271-286.

Poole, Deborah. *Vision, Race, and Modernity: A Visual Economy of the Andean Image World*. Princeton: NY, Princeton University Press, 1997.

Rai, Amit S. “Of Monsters: Biopower, Terrorism and Excess in Genealogies of Monstrosity.” *Cultural Studies* 18, no. 4 (July 2004): 538-570.

Raiford, Leigh. *Imprisoned in a Luminous Glare: Photography and the African American Freedom Struggle*. Durham: University of North Carolina Press, 2013.

Rao, Shakuntala, “Imperial imaginary: Photography and the invention of the British raj in India.” *Visual Communication Quarterly* 7, no. 4 (2000): 10-16.

Raulff, Ulrich. “An Interview with Giorgio Agamben.” *German Law Journal* 5, no. 5 (2004): 609–14.

Reinhardt, Mark. “Picturing Violence: Aesthetics and the Anxiety of Critique”. In

Beautiful Suffering: Photography and the traffic in pain", edited by Mark Reinhardt, Holly Edwards, Erina Dugganne, 13-36. Chicago: University of Chicago Press, 2007.

Reiter, Keramet. "The Pelican Bay hunger strike: resistance within the structural constraints of a US supermax prison". *South Atlantic Quarterly* 113, no. 3 (2014): 579-611.

Rodríguez, Dylan. "(Non) scenes of captivity: The Common Sense of Punishment and Death". *Radical History Review* 96, (2006): 9-32.

Rose, David. *Guantánamo: America's War on Human Rights*. London: Faber and Faber, 2004.

Rose, Gillian. *Visual Methodologies: An Introduction to the Interpretation of Visual Materials*. Los Angeles: Sage Publications, 2007.

Russo, Chandra. "Witness Against Torture, Guantánamo, and Solidarity as Resistance", *Race and Class* 58, no. 2 (2016): 4-22.

Hunt, Krista, and Kim Ryzgiel. "(En)gendered War Stories and Camouflaged Politics." In *Engendering the War on Terror: War Stories and Camouflaged Politics*, edited by Kim Ryzgiel and Krista Hunt, 1-27. London: Ashgate Publishing, 2007.

Said, Edward. *Covering Islam: How the Media and the Experts Determine How We See the Rest of the World*. New York: Random House, 1997.

— — — *Culture and Imperialism*. New York: Alfred A. Knopf, 1993.

— — — *Orientalism*. Middlesex: Penguin Press, 1978.

Sandvik, Kristin Bergtora. "Technology, Dead Male Bodies, and Feminist Recognition: Gendering ICT Harm Theory." *Australian Feminist Law Journal* 44, no. 1 (2018): 49-69.

Sardar, Ziauddin. *Orientalism*. Philadelphia, PA: Open University Press, 1999.

Scarry, Elaine. *The Body in Pain: the Unmaking and Making of the World*. New York:

Oxford University Press, 1985.

Scheper-Hughes, Nancy and Philippe Bourgois. "Introduction: Making Sense of Violence". In *Violence in War and Peace: An Anthology*, edited by Nancy Scheper-Hughes and Philippe Bourgois, 1-33 (Oxford: Blackwell Publishing).

Schept, Judah. "(Un)seeing like a prison: Counter-visual ethnography of the carceral state", *Theoretical Criminology* 18, no. 2 (2014): 198-223.

Scott, James C. *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*. New York: Yale University Press, 1998.

Sekula, Allan. "The Body and the Archive." In *The Contest of Meaning: Critical Histories of Photography*, edited by Richard Bolton, 342-388. London: MIT Press, 1989.

Sharma, Nandita. "White Nationalism, Illegality and Imperialism". In *Engendering the War on Terror: War Stories and Camouflaged Politics*, edited by Krista Hunt and Kim Ryzgiel, 121-143. London: Ashgate Publishing, 2006.

Sherwin, Richard K. "Introduction: Law, Culture and Visual Studies". In *Law, Culture, and Visual Studies*, edited by Richard K. Sherwin and Anne Wagner, xxxiii-3. New York: Springer, 2014.

Sheth, Falguni. "Unruliness without Rioting: Hunger Strikes in Contemporary Politics". In *Active Intolerance: Michael Foucault, the Prisons Information Group, and the Future of Abolition*, edited by Andrew Dilts and Perry Surn, 123-141. Palgrave Macmillan: New York, 2016.

Shomura, Chad. "These are Bad People" – Enemy Combatants and the Homopolitics of the "War on Terror", *Theory and Event* 13, no. 1 (2010): 1-21.

Sliwinski, Sharon. "A painful labour: responsibility and photography". *Visual Studies* 19, no. 2 (2004): 150-162.

Sontag, Susan. *On Photography*. New York: Anchor Doubleday, 1989.

— — — *Regarding the Pain of Others*. New York: Picador, 2003.

Spivak, Gayatri Chakravorty, "Subaltern Studies: Deconstruction Historiography". In *The Spivak Reader: Selected Works of Gayatri Chakravorty Spivak*, edited by Donna Landry and Gerald MacLean, 203-237. London: Routledge, 1995.

Steyn, Johan. "Guantanamo Bay: The Legal Black Hole." *The International and Comparative Law Quarterly* 53, no. 1 (2004): 1-15.

Stoler, Ann Laura, *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense*. Princeton: Princeton University Press, 2009.

— — — "Archival Dis-Ease: Thinking through Colonial Ontologies", *Communication and Critical/Cultural Studies* 7, no. 2 (2010): 215.

Tagg, John. *The Burden of Representation: Essays on Photographies and Histories*. London: Macmillan, 1988.

Tagma, Halit Mustafa. "Homo Sacer vs. Homo Soccer Mom: Reading Agamben and Foucault in the War on Terror". *Alternatives* 34, no. 4 (2009): 407-435.

Tascon, Sonia, "Considering Human Rights Films, Representation, and Ethics: Whose Face", *Human Rights Quarterly* 34, no. 3 (2012): 864-883.

Tidy, Joanna. "Visual Regimes and the Politics of War Experience: Rewriting War 'from above' in WikiLeaks' 'Collateral Murder'". *Review of International Studies* 43, no. 1 (2017): 95-111.

Twomey, Christina. "Framing Atrocity: Photography and Humanitarianism". *History of Photography* 36, no. 3 (2012): 255-264.

Turner, Bryan S. *The Body and Society: Explorations in Social Theory*. Thousand Oaks : Sage Publications, 1996.

- Trubek, David M. "Where the Action Is: Critical Legal Studies and Empiricism." *Stanford Law Review* 36, no.1/2 (1984): 575-622.
- Van Veeran, Elizabeth. "Captured by the camera's eye: Guantánamo and the shifting frame of the Global War on Terror". *Review of International Studies* 37, no. 4 (2011): 1721-1749.
- Velasquez-Potts, Michelle C. "Staging incapacitation: the corporeal politics of hunger striking", *Women & Performance: a journal of feminist theory* 29, no. 1 (2019): 25-40.
- Vicaro, Michael P. "Hunger for voice: Transformative Argumentation in the 2005 Guantanamo Bay Hunger Strike, *Argumentation and Advocacy* 51, no.3 (2015): 171-184.
- Waismel-Manor, Israel. "Striking Differences: Hunger Strikes in Israel and the USA." *Social Movement Studies* 4, no. 3 (2005): 281-300.
- Wall, Tyler. "Staring Down the State: Police Power, Visual Economies, and the 'War on Cameras'". *Crime Media Culture* 10, no. 2 (2014): 133-149.
- Wagner-Pacifici, Robin. "The Innocuousness of State Lethality in an Age of National Security". In *States of Violence: War, Capital Punishment, and Letting Die*, edited by Austin Sarat and Jennifer L. Culbert, 25-50. New York: Cambridge University Press.
- Wee, Lionel. "The Hunger Strike as a Communicative Act: Intention without Responsibility". *Journal of Linguistic Anthropology* 17, no. 1 (2007): 61-76.
- Wegenstein, Bernadette. "Body". In *Critical Terms for Media Studies*, edited by W.J.T. Mitchell and Mark B.N. Hansen, 19-35. University of Chicago Press: Chicago, 2010.
- Wilcox, Lauren B. *Bodies of Violence: Theorizing Embodied Subjects in International Relations*. New York: Oxford University Press, 2015.
- Wilke, Christiane. "War v. Justice: Terrorism Cases, Enemy Combatants, and Political Justice in U.S. Courts". *Politics and Society* 33 no. 4 (2005): 637-669.

Williams, Patricia. "Towards a Phenomenology of Skittles." Working Paper Series, *Colloquium in Legal, Political and Social Philosophy*. New York University School of Law, 2016, 1-32.

Young, Alison. "From Object to Encounter: Aesthetic Politics and Visual Criminology." *Theoretical Criminology* 18, no. 2 (May 2014): 159-175.

Zarzycka, Marta. "Madonnas of Warfare, Angels of Poverty: Cutting through press photographs." *Photographies* 5, no. 1 (2012): 71-85.

Zelizer, Barbie. *About to Die: How News Images Move the Public*. Oxford: Oxford University Press, 2010.

— — — *Remembering to Forget: Holocaust Memory through the Camera's Eye*. Chicago: Chicago University Press, 1998.

Zevnik, Andreja. "Becoming-Animal, Becoming-Detainee: Encountering Human Rights Discourse in Guantanamo." *Law Critique* 22, no. 2 (2011): 155-169.

Ziarek, Ewa. "Bare Life on Strike: Notes on the Biopolitics of Race and Gender." *South Atlantic Quarterly* 107, no. 1 (2008): 89-105.

Court Cases

Abu Wa'el (Jihad) Dhiab Petitioner v Barack H. Obama, et al, Respondents, Civil Action No. 05-1457 (GK) (D.C. Cir. 2014)

Al-Adahi v. Obama, 613 F.3d 1102 (D.C. Cir. 2010).

Basardh v. Bush, 2009 WL 856345 (D.D.C. Mar. 31, 2009).

Belbacha, Hadjarab, Dihad, and Aamer v. Obama, (D.D.C. June 30, 2013)

Boumediene v. Bush, 553 U. S. 723 (2008).

El Gharani v. Bush, 593 F. Supp. 2d 144 (D.D.C. 2009)

Fuentes v. Wagner, 206 F.3d 335, 345 (3d Cir. 2000).

Hamdan v. Rumsfeld, 548 U.S. 557 (2006).

Hamdi v Rumsfeld, 542 U.S. 507, 518 (2004).

Jihad Dhiab, Detainee, Guantanamo Bay Naval Station and Shaker Aamer, as Next Friend of Jihad Dhiab, Appellees, v. Donald J. Trump, President of the United States et al., Appellants, Hearst Corporation, et al., Appellees, No. 16-5011, (D.D.C. 2017)

Johnson v Eisentrager, 339 U.S. 763 (1950).

John Doe v. United States, 150 F.3d 170 (2d Cir. 1998).

Majid Abdulla al Joudi, et al, v. George Bush et al., Civil Action No. 05-301(D.D.C. 2005)

Shaker Abdurraheem Aamer, Detainee, Camp Delta and Saeed Ahmed Siddique, Next Friend of Shaker Abdurraheem Aamer, Appellants v. Barack OBAMA, President of the United States of America, et al., Nos. 13-5223, 13-5276, 13-5224, 13-5225 (United States Court of Appeals, D.D.C. Cir. 2014).

Youngstown Sheet & Tube Co. v. Sawyer, 343 U. S. 579, 637 (1952)

Government Documents

Authorization for Use of Military Force, Pub. L. No. 107-40, 115 Stat. 224 (2001).

Congressional Research Service, “Enemy Combatant Detainees: Habeas Corpus Challenges in Federal Court”, February 3, 2010, Summary.

National Defense Authorization Act for Fiscal Year 2012, Sec. 1023

Presidential Military Order: Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism, the White House, November 13, 2001.

Pub. L. No. 109-366, 120 Stat. 2600 (Oct. 17, 2006), enacting Chapter 47A of title 10 of the United States Code.

United States. Cong. Detainee Treatment Act of 2005, Department of Defense Appropriations Act, 2006.