Terror, torture and democratic autoimmunity

Leigh M. Johnson
Department of Philosophy, Rhodes College

Abstract

Shortly before his death in 2004, Jacques Derrida provocatively suggested that the greatest problem confronting contemporary democracy is that 'the *alternative to* democracy can always be *represented* as a democratic *alternative*'. This article analyses the manner in which certain manifestly anti-democratic practices, like terror and torture, come to be taken up in defense of democracies as a result of what Derrida calls democracy's 'autoimmune' tendencies.

> The great question of modern parliamentary and representative democracy, perhaps of all democracy ... is that the *alternative to* democracy can always be *represented* as a democratic *alternative*. (Jacques Derrida, *Rogues: Two Essays on Reason* [2005: 30–1])

> Remember, democracy never lasts long. It soon wastes, exhausts, and murders itself. There never was a democracy yet that did not commit suicide. (John Adams, letter to John Taylor [1814])

It is widely taken as axiomatic in the global North and West, but specifically in the United States, that 'democracy' is the best antidote to both terrorism[1] and the practice of torture.[2] In the case of the former, modern democracy's emphasis on political freedom, institutional justice, rational deliberation within and between legitimate nation-states, and the rule of law undermine the moral and political permissibility of rogue (non-state) actors who use violence to achieve factionalist ends. In the case of the latter, democracy's emphasis on human and civil rights, due process, non-coercion and, again, the rule of law protect against both gratuitous and merely utilitarian exploitations of human weakness. For both terrorism and torture, democracy thus appears the most

Corresponding author:

Leigh M. Johnson, Department of Philosophy, Rhodes College, 2000 North Parkway, Memphis, TN 38112, USA
Email: johnsonl@rhodes.edu

structurally well-suited form of political governance to combat these injustices and to prevent or pre-empt the suffering that they cause. Nevertheless, the self-styled 'preeminent' modern democracy, the United States, has been increasingly accused of employing or permitting (arguably) terrorism and (considerably less arguably) torture in the service of 'securing' the very democratic principles that ostensibly prohibit those practices. In the following, I will argue that we must seriously reconsider the presumed structural invulnerability of democracy to terror and torture in order to allow for the possibility that their appearance is not anomalous, but rather constitutive, even if hidden, parts of 'democracy' as we understand it. Only by doing so, I argue, can we begin to sharpen a kind of critical awareness of and vigilance against the dangers that are *structurally* inherent to the very ideal of democracy.

What is needed is more conceptual clarity about our working idea of democracy, which I argue (following Jacques Derrida) harbors within it an *aporia*. The Greek term απορια (from α-πορος) literally means 'without passage', but has been taken up by Derrida and readers of Derrida more or less as a radicalized synonym for 'paradox' or a situation of undecidability. Within Derrida's corpus, considerations of the *aporia* are quite literally everywhere, and the 'motor' of deconstruction, *s'il y en a*, may be best described as the detection and elaboration of *aporias*.[3] The *aporia* is a 'philosophical puzzle' that has plagued philosophy – and, in particular, metaphysics – since at least Aristotle.[4] An *aporia* is more than a simple logical contradiction; it necessarily involves a conflict that appears to be unsolvable by reason. As Derrida describes it, the *aporia* is a 'non-road', the 'incalculable' or an 'interminable experience' that 'can never be endured as such'.[5] Because human reason is not only stymied but also obliged by *aporias*, Derrida speculates that the confrontation with an *aporia* requires that one make a decision. In fact, the *aporia* is 'the law of all decisions' and serves as the only case in which a 'real' decision (and not merely an economic or logical 'calculation') is made.[6] That is to say, for Derrida, the *aporia* necessarily demands decisiveness, and hence is best explicated in contexts where a decision is at stake, rather than as some thing-in-itself.[7]

The context of 'democracy' – more specifically, the context in which the 'meaning of democracy' (what democracy *is*, what democracy *allows* and what democracy *forbids*) is in question – is just such an example of an *aporia* that must be decided because it cannot be endured. This context is all the more complex because, by definition, the meaning of democracy is not a decision made by one, but by the many. The source of democracy's power (κράτος, *kratos*), the people (δῆμος, *demos*), is not only an innumerable and incalculable resource, but often also an unpredictable one. Because this instability is built into its very form, democracy is vulnerable to what Derrida has on occasion referred to as its inherent 'pervertibility', which he views as the flip-side of its 'perfectibility'.[8] To hazard a prediction about whether any particular democratic practice will perfect or pervert democracy as such is always a risky endeavor, and demonstrates the structural tendency of democracy to form as what Derrida calls an 'autoimmune community'. Derrida's analysis of democratic autoimmunity draws attention to the fact that democracy is never stable or 'safe', that its efforts at securing itself and its significance are often disguised risks to itself, and vice versa. Hence, the *meaning* of any particular, historical democracy or its democratic practices is never fully present or uncomplicatedly decipherable. Rather, democracy is something that is pursued rather than achieved, and it

is this structural deferral of any final evaluable meaning, implicit in the very concept of democracy, that both frustrates it and pushes it forward.

1 Understanding 'democratic autoimmunity'

'Autoimmunity' is a concept that Derrida borrows from the biological sciences. Biologically speaking, the immune system is what protects the body against pathogens, antigens, or other threats from the outside. The body's immune system functions most effectively on the basis of an ability to discern the difference between itself and organisms that are foreign (and presumably hostile) to it. This system is essential, but extremely delicate. The body is severely compromised by anomalies in the immune system's functioning, most commonly when deficiencies in the body's ability to generate adequate immune responses result in life-threatening illnesses. (This is why the immune system sometimes requires assistance from what used to be known as 'booster' shots – or vaccines/inoculations.) On the opposite end of the spectrum, *auto*immunity is a physiological anomaly that results in the body's confusion or inability to discern the difference between self and other, consequently resulting in a misdirected kind of hyper-active immune response. In 'autoimmune diseases', the body (somewhat inexplicably) develops auto-antibodies that attack its own cells *as if* they were foreign – that is to say, the immune system begins to attack the very same body it is designed to protect due to an inability to 'distinguish between what it protects and what it protects against'.[9] What Derrida exploits in his borrowing of this concept from biology is the always-possible failure of (physiological) systems of self-protection. In order to insure good health, we require that our immune systems be 'perfectly' vigilant to bodily dangers; if immune systems are deficient, we suffer disease, and if they are excessive, our bodies destroy themselves. Yet, the only way to achieve the perfect vigilance that is required for perfect health is by the immune system's distinguishing perfectly between the natural and the foreign, the self and the other, what belongs *inside* and that which comes from the *outside*.

Derrida's earliest articulations of deconstruction demonstrate that these distinctions are none too easy to make, even for the most well-designed systems of self-defense. His deconstructive analyses, as early as the readings of Rousseau in *Of Grammatology* and Plato in *Dissemination*, demonstrate that, analogous to the body's system of immunity, all 'texts' or systems of meaning include gaps, anomalies, inconsistencies, counterproductive impulses, possible failures and otherwise unpredictable operations of 'autodeconstruction'.[10] Hermetically sealed, perfectly sound and maximally coherent 'texts' are just as elusive – and impossible – as perfect health. In a 1997 roundtable discussion, Derrida reiterated the oft-overlooked point that 'deconstruction is not a method or some tool that you apply to something from outside of it', but rather that 'deconstruction is something that happens and happens inside'.[11] The point here is not to reinforce or reify the inside/outside distinction, but to show that our reliance on this distinction is many times misleading, and just as often philosophically dangerous. 'Autoimmunity' is the term that Derrida assigns to this phenomenon, when systems of ostensible protection or defense (against foreign invasion, misunderstanding, recontextualization, *dis*-ease) mysteriously generate their own hazards and risks, that is, the means for their own undoing.

Derrida's first explicit engagement with the idea of 'autoimmunity' was in his treatment of the relation between religion and technological modernity entitled 'Faith and Knowledge: the Two Sources of "Religion" at the Limits of Reason Alone'.[12] There, Derrida analyses the way in which religion makes use of one of the greatest achievements of modern technology, the communications infrastructure of late-industrial society (what Derrida calls 'tele-mediatization'), thereby employing what seems to threaten it as a means for its own survival.[13] Religious communities, like all communities, aim to exclude the 'outside-of-oneself' upon which they paradoxically depend for survival. Similarly, in *The Politics of Friendship*, Derrida expounds upon his previous disavowal of, or at least skepticism about, the language of 'community' on precisely these immunitary/autoimmunitary grounds. Ideally, communities promise a kind of openness and inclusiveness – which he calls *aimance* or, taking up the Greek philosophical heritage, 'friendship' – that they can only sustain by strategically undermining it.[14] That is to say, communities (religious or otherwise) only *make sense* as communities when they can identify who belongs and who does *not*, which means that in constituting and sustaining themselves they often betray a fundamental axiom of their constitution and sustenance, the notion of the 'common' or the 'being-in-common'. Commonality or community is sensible, i.e. sustainable, only to the degree that it can identify those who are uncommon, outside or foreign, even enemies (as Derrida identifies in the tradition following Carl Schmitt).[15] To return to the analogy Derrida makes with physiological autoimmunity: *all* communities insure their own survival in part by putting themselves at risk.[16] In the same way that the (physical) body *must* remain open to what lies outside of it – a body completely closed in on itself would surely succumb to madness or death – even at the risk of confusing the pathogen with the healthy cell, communities likewise always put at risk their integrity in order to insure their own livelihood, their own potential for life and for growth, and to realize the openness which remains (despite its dangers) the law of survival for community.

The 'political' resonance of autoimmunity and its specific manifestation in democratic practice becomes clearer in Derrida's application of it to real-world historical examples in *Rogues* and his post-9/11 interview with Giovanna Borradori entitled 'Autoimmunity: Real and Symbolic Suicides'. In these elaborations of his earlier analysis of the 'double and contradictory structure' of immunity/autoimmunity, Derrida considers the risks that democracy generates for and poses to itself.[17] The historical example that Derrida addresses in both *Rogues* and 'Autoimmunity' is that of his original home, Algeria. This is a particularly fertile case for analysis because the colonial and postcolonial history of Algeria gives detail to the structural cycles of the immune/autoimmune phenomena that unsettle democracy. In 'Autoimmunity', he adds two other cases to the Algerian example, which are particularly relevant to the relationship between democratic autoimmunity and terrorism: (1) the terrorist events of 9/11 and (2) what he calls 'repression in both its psychoanalytical sense and its political sense' (of which '9/11' is both a symptom and an example).[18] The purpose of these interventions into real-world historical events is to accent the contamination of the immune and autoimmune processes within democracies. What we see in them is that the 'cause' for the disintegration, degeneration, or destruction of democracy is ultimately posited as an *aporia* because, Derrida conjectures, 'murderous' attacks from the outside of democracy and 'suicidal' attacks from within it are quite often indistinguishable.

In January 1992, democratic elections were interrupted and 'indefinitely' suspended in Algeria after the landslide victory of the Islamic Salvation Front (Front Islamique du Salut, or FIS) in the first round of balloting. A month later, the Algerian government declared a state of emergency and banned the FIS, the leading opposition party at the time. In the 12 months following, Algeria suffered an increase of violence (including assassinations, indiscriminate detentions, torture and the widespread suspension of civil rights under martial law) to levels not seen since the riots of October 1988, which had begun a period of political liberalization and reform following three decades of one-party rule in Algeria. Before 1992, the former French colony of Algeria was widely considered a leader among democratizing countries in the region; however, the rapid disintegration of the democratic infrastructure in 1992 belied the confidence many had declared in postcolonial Algeria's exemplarity. Although the Algerian government blamed its crackdown on the perceived threat posed by Islamists of the FIS, non-Islamist opposition parties like the Socialist Forces Front and the Workers Party (PT) were also banned from conducting public meetings and Algeria's independent press (until 1991, the freest in North Africa) was effectively annihilated. Emboldened by tacit support from the West (especially the United States and France), the Algerian government rejected criticism of its own suspension of democratic procedures and redoubled its resolve to prevent the Islamic 'extremists' of the FIS from undermining those same democratic practices. The US Assistant Secretary of State for Near Eastern and South Asian Affairs, Edward Djerejian, validated the position of the Algerian government when he declared: 'We are suspect of those who would use the democratic process to come to power, only to destroy that very process in order to retain power and political dominance.'[19] With this declaration in support of the Algerian suspension of democratic elections, and without irony, Secretary Djerejian thus legitimated the effective 'suicide' of democracy (by democrats) in the name of preventing its 'murder' (by democratically elected 'anti-democrats').

For Derrida, democracy has a *structural* tendency to make its murder and suicide appear indistinguishable – this is its tendency qua an 'autoimmune community'. In the same way that the human body's autoimmune response fails to distinguish between what it protects and what it protects against, so too do democracies sometimes deploy their own systems of self-protection against those who purport to represent democracy or, in what amounts to the same thing, against those that democracy purports to represent. In the case of Algeria, Derrida writes:

> We have here not one but a whole series of examples of an autoimmune pervertibility of democracy: colonization and decolonization were both autoimmune experiences wherein the violent imposition of a culture and political language that were supposed to be in line with a Greco-European political ideal … ended up producing exactly the opposite of democracy (French Algeria), which then helped fuel a so-called civil war, one that was really a war for independence waged in the very name of the political ideals extolled by the colonial power. The new power *itself* then had to interrupt the democratization under way; it had to interrupt a normal electoral process in order to save a democracy threatened by the enemies of democracy.[20]

To protect itself against the 'enemies of democracy' – in the Algerian case, the FIS, but for the purposes of Derrida's larger analysis, there is a literally infinite series of

possible substitutions to fill the structural place of the 'enemy' – Algerian democracy effectively 'secreted' its own auto-antibodies, in the forms of both anti-democratic (Algerian) martial law and anti-democratic (Islamist) revolutionary violence, each asserting some right to the claims of democratic legitimacy. The autoimmunitary response thus perverted the Algerian democracy such that 'its only apparent options remained murder and suicide; but the murder was already turning into suicide, and the suicide, as always, let itself be translated into murder'.[21]

Interestingly, Derrida appears to elide any clear distinction between the immune and autoimmune processes, and he often uses the term 'autoimmunitary' to refer to both as if they were a single phenomenon. However, it is precisely the mutual contamination of these seemingly distinct operations that Derrida wants to highlight. The autoimmunitary impulse within democracy (like all *aporias*) is characterized by an undecidability that is more than simply an internal contradiction. Instead, Derrida describes the autoimmune confusion of murder and suicide as an 'internal-external, nondialectizable antinomy that risks paralyzing and thus calls for the event of the interruptive decision'.[22] This phenomenon is not isolated to the historically specific example of Algeria, where anti-Islamist fervor seized democrats and caused them to view anti-democratic practices as necessities for the survival of democracy. From 2001 to the departure of President George W. Bush's administration in 2008, one could easily see the same fear sedimented in the United States and the dominant western countries that allied themselves with the United States after 9/11. The historical examples of democracies where civil liberties are suppressed – or worse – in the name of security are numerous enough to suggest that the autoimmunitary function is more foundational to democratic practices than an anomaly of them.[23]

Derrida argues that there is a structural autoimmunitary or autodeconstructive force 'in the very motif of democracy, the possibility and the duty for democracy to de-limit itself'.[24] Democracy is fundamentally *critical*; it draws its own limits because, by definition, it does not submit itself to any other, outside authority. Its law, its power and its sovereignty are invested in and liable to the *demos* – that impossibly, infinitely accountable and 'incalculable singularity of anyone'.[25] Derrida writes:

> Of all the names grouped a bit too quickly under the category of 'political regimes' (and I do not believe that democracy ultimately designates a 'political regime') the inherited concept of democracy is *the only one* that welcomes the possibility of being contested, of contesting itself, of criticizing and indefinitely improving itself. If it were the name of a -regime, it would be the name of the only 'regime' that presupposes its own perfectibility, and thus its own historicity ...[26]

Alex Thomson, in a recent essay entitled 'What's to become of the "Democracy to come"?', considers the significance of Derrida's shift in terminology in his last few years away from the 'democracy to come' (which figured so prominently in *The Politics of Friendship*) to the theme of democratic 'autoimmunity'.[27] Thomson speculates that the 'futurity' (*a venir,* or 'to come') of democracy in *The Politics of Friendship* was predominantly taken up by Derrida's readers in *hopeful* or *promising* terms. That is to say, Derrida's point that – structurally speaking – democracy is always open to the future

became the ground for a kind of reductive political optimism, which perhaps overemphasized the 'perfect' in democracy's 'perfectibility'. Thomson argues that Derrida's turn toward 'autoimmunity' in his last few works helped to guard against this reductive optimism about the 'democracy to come' and reinforced his central, if often overlooked, argument in *The Politics of Friendship* that the futurity of democracy must remain 'monstrous, unimaginable because it implies the devastation of all the conceptual systems by which we reckon politics'.[28] The fact that the meaning of democracy is always contested, always deferred and always revisable complicates it as an object of philosophical analysis, but it is precisely the ambiguity that the idea of democracy shelters within it that Derrida's analysis brings to the forefront.

I agree with Thomson that Derrida's shift from the language of 'democracy to come' (and its implicit 'perfectibility') to that of democratic autoimmunity (and its implicit 'pervertibility') is less a conceptual shift than a rhetorically and politically strategic one. That is, Derrida's modification represents his resistance to what he has called 'the consensus of a dogmatic slumber' or a complacently 'remoralized deconstruction', as he instead elects to preserve the radically mercurial picture of democracy that is more faithful to the concept's tradition.[29] In a classic deconstructive move, Derrida wants to maintain in his analyses of democracy a critical stance, an undecidability, which does not succumb to the widespread euphoria of post-cold-war liberal democrats who too quickly proclaim democracy's unqualified triumph. Algeria is a case in point here: an ostensibly successful, postcolonial democracy that fell prey to the autoimmune perversions that constitute all democracies. And, as I will argue below, the United States is also a case in point: its complicity in the training and development of what we now recognize as international 'terrorist' networks, as well as its acute rolling-back of democratic civil rights in the name of national security, also demonstrates the inherent pervertibility of its democracy. The 'democracy to come' never meant, for Derrida, simply a 'future' democracy that will some day be 'present', because democracy is *never* simply presentable; it is not 'a regulative ideal in the Kantian sense'.[30] What Derrida offers in his elaboration of the phenomena of democratic autoimmunity is an important conceptual clarification of our working idea of democracy: democracy inscribes *a promise that risks* and 'always risks being perverted into a threat'.[31] Democracies generate their own enemies, their own antigens, their own 'monsters' as much as they generate their own possibilities for improvement. What Derrida's analysis shows is that there is an undeniable link between democratic autoimmunity and the undecidability of democracy. Will any democratic practice, including the sometimes necessary suspension or deferral of the democratic, improve or destroy the foundations of democracy? There is no secret, prefabricated, predictable, or strictly economic answer to these uncertainties.

2 Democracy and terror

Although certainly not unique to the event of 11 September – and '9/11', for Derrida, is an 'event' par excellence[32] – the attacks on the World Trade Center and the Pentagon literally brought home to one of the world's most prominent and powerful democracies its own 'terror'. In his interview with Giovanna Borradori shortly after 11 September 2001, Derrida discussed democratic autoimmunity in what he termed three 'moments', two of which were in

reference to the cold war's (or the end of the cold war's) 'balance of terror' and the third of which was in reference to 'repression' in both its psychoanalytical and political sense.[33] All three moments are clearly intertwined and are meant to show how democracy often suppresses (or represses) its own systems of protection, thereby generating its own threats. Of the 9/11 attacks, Derrida writes:

> . . . here is the first symptom of suicidal autoimmunity: not only is the ground, that is, the literal figure of the founding or foundation of this 'force of law' *seen* to be *exposed* to aggression, but the aggression of which it is the *object* . . . comes, *as from the inside*, from forces that are apparently without any force of their own but that are able to find the means . . . to get hold of an American weapon in an American city on the ground of an American airport. Immigrated, trained, prepared for their act in the United States by the United States, these *hijackers* incorporate, so to speak, two suicides in one: their own . . . but also the suicide of those who welcomed and trained them.[34]

Derrida's insight in this passage makes plain what is, by this point, a much-rehearsed tragic irony of 9/11: that the 'terrorists' who executed the attacks on the World Trade Center and the Pentagon were in fact part of an extended network of militants produced and trained by the United States during the cold war. Mahmood Mamdani, in his 2004 *Good Muslim, Bad Muslim: America, the Cold War, and the Roots of Terror*, recounts the full (tragic) irony of America's cold war strategy in detail.[35] Mamdani's careful historical reconstruction of post-Second World War American foreign policy reinforces Derrida's claim that the contemporary phenomenon of 'international terrorism' is inextricably linked to the United States' engagement after the Second World War in proxy wars in the Middle East, South America and Africa intended to 'contain' the Soviet threat and procure a 'balance of terror'. This strategy included, most ominously, the arming and training of Afghani militia to combat the Soviet occupation of Afghanistan in the 1980s. Setting the stage for the autoimmunity that Derrida will elaborate, Mamdani identifies 1985 as the moment when America 'tried to harness the extreme version of political Islam' – a movement that, in any other historical context, would be anathema to American democracy – against the Soviet Union.[36] It was in 1985 that, standing on the lawn of the White House, President Ronald Reagan welcomed a group of Afghan leaders (all *mujahideen*[37]) with the words: 'These gentlemen are the moral equivalent of America's founding fathers.'[38] At that moment, the premier American democrat served as the mouthpiece for American democratic autoimmunity without knowing, at the time, that he was granting moral and political sanction to the same political elements that would, in less than two decades, become the new 'enemy' of American democracy.

What seemed like the worst possibility during the cold war – the complete eradication of the world's most dominant powers by means of a nuclear attack – was contained in an uneasy, but relatively stable, 'balance of terror' between the USA and its avowed enemy, the Soviet Union. 'Mutually Assured Destruction' (MAD)[39] was the official name of this policy, a modified Nash Equilibrium (of game theory) in which players attempt to avoid the worst possible outcome by locking one another into a stalemate in which neither side can benefit by changing strategies unilaterally.[40] It was during this stalemate that Derrida identifies the 'first moment' of American democratic autoimmunity, when the USA began to train and arm its future enemies in an attempt to protect itself against its (then)

present enemies. The 'second moment' of autoimmunity, both a symptom and a conse-
quence of the first, appeared in September 2001 when the USA came to realize that the
cold war threat, ostensibly the 'worst' imaginable, was in fact *not* the worst. In the event
of a nuclear war, hypothetically, everything would be annihilated. But the 'terror' attacks
of 9/11, in Derrida's view, put forward a possibility 'worse than the Cold War' inasmuch
as the new threat opened a wound that '*remained open* by our terror before the *future* and
not only the past'.[41] The 9/11 terror was *more* tragic – to whatever extent it makes sense
to quantify tragedy – because 'it is the future that determines the unappropriability of the
event, not the present or the past', and the terrorism that Americans experienced on 9/11
made the already unpredictable future radically, terrifyingly unpredictable.[42]

   The threat of 'terrorism', which (even more than the nuclear threat) renders the future
radically unpredictable and gestures toward the unimaginable that *could still happen
again*, represents the residual consequence of both the cold war and the supposed 'end'
of the cold war. In the first place, the greatest threat still remains the (foreseeable,
calculable, appropriable) nuclear threat, which is the stamp of the cold war on our pres-
ent age. But since the declaration of the 'end' of the cold war, the nuclear threat has been
disseminated, dispersed and dislocated such that this 'total' threat 'no longer comes from
a state but from anonymous forces that are absolutely unforeseeable and unpredict-
able'.[43] Derrida speculates that after the cold war, we can no longer rely on the security
ostensibly provided by a 'balance of terror' because there is no longer a 'standoff'
between two exclusive powers. The threat to American democracy that was reified in the
figure of the Soviet Union has now been replaced by a kind of 'anonymous invisibility of
the enemy'.[44] With terrorism, one no longer knows where the threat to American democ-
racy originates, who or what it targets, what it intends, how it will execute its terror, or to
what degree it will effect its destruction. The 'end of the cold war' threat is thus a hyper-
bole of the 'cold war' threat, which nevertheless is able paradoxically and simultane-
ously to 'appear insubstantial, fleeting, light, and so seem to be denied, repressed,
indeed forgotten'.[45] Yet, importantly, Derrida suggests that any attempts to neutralize
(deny, repress, forget) the threat are 'but so many desperate attempts ... so many auto-
immunitary movements ... which produce, invent, and feed the very monstrosity they
claim to overcome'.[46]

   It is in the identification of democratic autoimmunity's 'third movement' that Derrida
begins to uncover what is a recognizably postcolonial theme: 'For we now know that
repression in both its psychoanalytical and political sense – whether it be through the
police, the military, or the economy – ends up producing, reproducing, and regenerating
the very thing it seeks to disarm.'[47] The tendency for power structures to generate their
own points of resistance is a theme familiar to postcolonial theorists, especially readers
of Foucault, and it is helpful to incorporate a bit of Foucault's insight here.[48] In *The His-
tory of Sexuality*, volume 1, and elsewhere, Foucault argued that it is an error to think
about 'power' as only *either* repressive *or* constitutive. Rather, we should think of power
as a 'multiplicity of force relations immanent in the sphere in which they operate and
which constitute their own organization'.[49] Power is ubiquitous for Foucault in this
sense: it infiltrates, produces, forms and regulates everything in the fields in which it
operates – including (and this is the autoimmune function that Derrida highlights) the
fields in which 'resistance' to power manifests itself. All resistances to or oppositions

of power are, in some sense, mechanisms of the power they claim to resist or oppose. Or, as Robert Young restates it, 'in any system of force there will always be sites of force that are, precisely, forced, and therefore allow for pressure and intervention'.[50] Derrida uses the events of 9/11 to draw attention to just this phenomenon in American democracy: the power that the United States deployed to protect its democracy during the cold war ended up generating resistances to American democracy in the form of post-cold-war international terrorism. To the extent that the American psyche represses ownership of this autoimmune phenomenon, which itself 'represses' or drives into the unconscious the limits of American immunity, it continues to be traumatized not only by actual events like 9/11 but also by the ever-looming possibility of their repetition.

Foucault's analytic of power bears a strong affinity with Derrida's deconstructive notion of autoimmunity. The deconstructive operation, as noted above, never occurs by bringing something wholly 'outside' of a system to bear on it, thereby disrupting the meaning, sense, or function of a system through the introduction of some foreign and threatening element. Rather, each text (or institution, or culture, or democracy, or system of meaning) possesses its own internal points of weakness, just as it possesses points of impregnability. Deconstruction, for Derrida, is not something someone 'does' independent of the system being deconstructed any more than 'resistance' or 'revolution', for Foucault, is something someone 'does' independent of the power structure being resisted or revolted against. To the extent that a pressure point is activated in a democracy by some person or group of persons, we must understand that these are not totally self-determining actors or agents existing totally outside of democracy's autoimmune mechanisms. To borrow Foucault's language, we could say that democracy produces only subjects who reproduce the democracy that produced them as who they are, whether patriots or terrorists. And, as Derrida notes, a 'terrorist' in one context is always a 'freedom fighter' in another (for example, during the Soviet occupation of Afghanistan), sometimes using the very same weapons and strategies.[51] The meaning of democracy is always vulnerable to decontextualization or recontextualization, and any democracy in which terms that refer to 'terrorist' actors and their actions make sense is not only highly mutable, but infinitely revisable.

The point is that when we use terms like 'democrat', 'terrorist', 'liberator', 'axis of evil', or 'rogue', we must remember, Derrida warns, that 'the more confused the concept the more it lends itself to an opportunistic appropriation'.[52] Anyone who calls himself or herself a 'democrat' always also harbors a bit of the rogue (in French, *voyou*), because – as we see in Derrida's examples of Algeria and the United States – the alternative to democracy can always present itself as a democratic alternative. (And Derrida reminds us that there 'are rather few philosophical discourses, assuming that there are any at all, in the long tradition that runs from Plato to Heidegger, that have without any reservations taken the side of democracy'.[53]) This is the fundamental antinomy of Derrida's explication of democratic autoimmunity: democracies, *because they must remain open to alternatives*, risk themselves when those alternatives prove to be hostile to democracy, *and/yet/but* 'democrats' often pre-empt this possibility by attempting to close off those alternatives in what amount to anti-democratic practices. Like Chomsky's pre-2001 *Rogue States*, Derrida's *Rogues* contends that the contemporary *practice* of

democracy – as evidenced, in particular, by America's exercise of its sovereignty in foreign policy – includes the *roguish*.[54] Derrida writes:

> ... the most *roguish* of rogue states are those that circulate and make use of a concept like 'rogue state,' with the language, rhetoric, juridical discourse, and strategico-military consequences we all know. The first and most violent rogue states are those that have ignored and continue to violate the very international law they claim to champion, the law in whose name they speak and in whose name they go to war against so-called rogue states each time their interests so dictate. The name of these states? The United States.[55]

Derrida's point is not simply to suggest that the United States is just a *bad form* of democracy, though it may be the state in which the dangerous autoimmunity of democracy appears most pronounced. But even the United Nations, the 'international democracy', is affected by an autoimmunity that produces its own *voyous*. In order for democracies (national or international) to be effective, to generate, sustain and enforce a system of law that can secure democracy, they need power within their ranks, what Derrida calls the *cracy* of the *demos* – in the case of the United Nations, the 'world *demos*'. This requires the emergence of a kind of pre-eminent sovereign force ('stronger than all the other forces in the world') that can represent and protect the 'world democracy'. However, this necessary and indispensable force will inevitably 'betray and threaten' the world democratic order at every turn in an autoimmune fashion that, according to Derrida, is 'just as silent as it is unavowable' – and *this* is the roguish role of the United States *within* the United Nations to which Derrida (and Chomsky) call our attention.[56]

Because of their inherent autoimmune tendencies, then, democracies are not only *not invulnerable to* terrorism (as either perpetrators or victims) but in fact are *structurally disposed toward* it. To suggest that 'terrorism' and 'democracy' are simple antonyms amounts to an ignorance concerning the history of modern democracy – one of the founding moments of which was Robespierre's Reign of Terror – as well as a gross misunderstanding of the most fundamental vulnerability of democracy, that is, its tendency to secure itself against real or perceived threat even at the cost of employing non- or anti-democratic mechanisms. The shift from inter-state violence to non-state violence (or violence between states and non-states) in the last decades of the 20th century magnifies this threat exponentially, as it becomes more and more difficult to discern between a 'real' and a 'perceived' threat. Terror, by its very definition (from Latin, *terror*, 'great fear or dread'), cannot be anticipated. It is, as Derrida says of all of the threats that threaten democracy, 'just as silent as it is unavowable'.

3 Torture in, by and of democracy

The most recent version of the United States' *Army Field Manual* – the official document determining guidelines for battlefield capture of 'enemy prisoners of war' (EPWs), screening logistics, and regulations for the planning, questioning, approach and termination of an interrogation – details 19 different techniques permitted by law, and prohibits 9 others, that the US military considers appropriate for interrogators seeking to establish rapport with and/or extract information from prisoners.[57] None of the 'approved'

techniques includes torture. In fact, the United States is a signatory to both the Geneva Convention[58] and the UN Convention against Torture, each of which explicitly forbids 'any act by which severe pain, whether physical or mental, is intentionally inflicted' to gain information, to extract information, or as punishment.[59] Following the events of 9/11, and culminating in the scandals surrounding the treatment of 'enemy combatants' in the Abu Ghraib[60] and Guantanamo Bay[61] detention facilities, questions surrounding the ethical and legal permissibility of torture came to dominate not only the American moral psyche but also the public political discourse. Citizens whose moral sensibilities were otherwise offended by cruel and inhumane treatment of prisoners found themselves seriously reconsidering the presumed utilitarian advantages of torture for augmenting 'homeland security'. These reconsiderations were fueled, in large part, by the official sanctioning (or, at the very least, tacit permission) on the part of senior Bush Administration officials like Vice President Dick Cheney, Secretary of Defense Donald Rumsfeld, Attorney General John Ashcroft and Assistant US Attorney General Jay Bybee of highly questionable interrogation techniques such as 'waterboarding',[62] extreme sensory deprivation and/or assault, humiliation and extended subjection to painful and sometimes fatal 'stress and duress' methods.[63]

When it was uncovered that, in 2002, the US Justice Department had severely restricted its definition of 'torture' to include only actions that 'must be equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death', the issue of the United States' complicity in truly 'anti-democratic' human rights violations was brought to the fore.[64] American 'exceptionalism', by which the United States is understood to occupy a privileged place among developed nations that allows it to operate as an 'exception to' the law (specifically, the Law of Nations), seemed to have become the default ideological position of the George W. Bush administration.[65] As we saw in Derrida's analysis, the international 'terrorist' threat was figured as the post-cold-war 'enemy' of democracy, and the United States' security agencies and military had little to no experience combating this new enemy. The Central Intelligence Agency (CIA), tasked by President Bush with developing a robust and effective interrogation program, even resuscitated what was truly an artifact of the cold war, a manual code-named KUBARK,[66] and turned to dubious partners for assistance in designing its interrogation regimen. (These partners included Israel, Egypt and Saudi Arabia – all countries cited by the State Department for using torture – among others.[67]) KUBARK's menu of coercive techniques ominously instructed that prisoners be 'cut off from the known' and 'plunged into the strange'.[68] The terrible and terrifying 'strangeness' into which these prisoners were secretly plunged finally was made manifest to the American public in April/May of 2004, when photographs were published in *The New Yorker* documenting the American military's (and its proxies') use of torture on prisoners in the Abu Ghraib detention facility.[69]

The employment of torture by American forces in the service of protecting 'democracy' highlights the aporetic relationship between democratic norms (like the rule of law and human rights) and anti-democratic practices – a relationship between seemingly heterogeneous elements that, in times of crisis, tend to be both mutually implicating and mutually contaminating. In his 2005 *State of Exception*, Giorgio Agamben analysed what he deemed the increasing prominence of Carl Schmitt's notion of the

Ausnahmezustand ('state of exception'), which Schmitt famously utilized in the course of defining 'sovereignty' as the power to proclaim state emergency and, hence, the power of a state to declare itself an exception to normal legal or juridical restrictions in such emergencies.[70] Agamben views the *Ausnahmezustand* as 'the original structure in which law encompasses living beings by means of its own exception', and he notes that President Bush's executive order of 13 November 2001 (which authorized the 'indefinite detention' and trial by 'military commissions' of suspected terrorists) effectively instituted American democracy as a state of exception.[71] To wit, we see that what Derrida termed the operations of 'democratic autoimmunity' can be elaborated also in Agamben's analysis of the 'state of exception', in which democracy exercises a certain configuration of sovereign power that no longer has as its root the fundamental 'democratic' principle, i.e. the public good. Agamben writes:

> The aim of [this book, *State of Exception*] – in the urgency of the state of exception 'in which we live' – was to bring to light the fiction that governs the *arcanum imperii* [secret of power] par excellence of our time. What the 'ark' of power contains at its center is the state of exception – but this is essentially an empty space, in which a human action with no relation to law stands before a norm with no relation to life.[72]

The power 'in which a human action with no relation to law stands before a norm with no relation to life' is, of course, the basis of the power exercised by the torturer, whose relationship to democratic law or the Law of Nations persists in a space of maximum tension. That is, democracy has no power to regulate or enforce its principled laws in defense of human rights if its sovereign power over those lives is deactivated … and/yet/but, democracy's fortification of that sovereign power only seems to be maximally efficacious by strategically disregarding human rights in favor of the power to 'secure' them. This is, at heart, one of the operative *aporias* of democracy, and a primary *locus* for the activation of democracy's autoimmune function.

For Agamben, the *Ausnahmezustand* represents the (real and ideological) space where political legitimacy and political violence meet. In times of crisis or emergency, state power – even in democratic states – sometimes reflexively reaches back to the violence that secretly founds and subtends it, in order to secure its own survival.[73] However, as Agamben argues, the state of exception in the latter half of the 20th century became more than simply a provisional measure, as it was originally conceived, but rather a normal paradigm of government. Inasmuch as the state of exception effectively severs the tie between the rule of law and the responsibility of governments, it creates a space with the potential to transform democracy into totalitarianism and it provides a prima facie justification for the exercise of manifestly anti-democratic practices. This explains how the modern liberal-democrat's ordinary revulsion at torture can be suspended in the *Ausnahmezustand*, because what the state of exception makes possible is the activation of the phenomenon of 'democratic autoimmunity'.

What I want to propose here is that in the same way that democracies sometimes effectively *terrorize democracy* with anti-democratic practices (or support of anti-democratic elements) in the name of securing 'democracy', so too do they *torture democracy* in an autoimmune permission of the fundamentally anti-democratic practice

of torture. Structurally speaking, terrorism and torture are quite similar phenomena. Both subordinate questions about the moral or legal permissibility of certain tactics to questions about the likelihood of those tactics producing an intended result. Both prey on the physical, psychological and emotional vulnerabilities of others, and both attempt to exert control through violence and intimidation. Both view rational, equal deliberation as inefficient at best, hopeless at worst. Perhaps most importantly, both invariably compromise the integrity of all the things that make democracies *democratic*, not the least of which are the democratic precedents of respect for due process, human rights and just procedures superseding any particular interest. If we are to arrive at some conceptual clarity about our working idea of democracy, as I suggested at the outset, we must not only train our focus on the fact that anti-democratic practices often find their ways into democracy, but also on the fact that these practices are, despite their appearance in democracies, nevertheless still *anti-democratic*.

There is something that *does* distinguish the phenomenon of torture from the phenomenon of terrorism, however. The aim of torture is to reduce human beings to the point where they *no longer are able* to participate as the rational and deliberative agents that all democracies depend upon to determine what is in the best interest of themselves and the collective. As David Sussman has argued, torture should hold a special place in our moral and legal disapprobation – qualitatively different than other forms of war or killing – because only torture demands that the victim be forced 'into the position of colluding with himself through his own affects and emotions, so that he experiences himself as simultaneously powerless and yet actively complicit in his own violation'.[74] As such, Sussman calls torture the 'pre-eminent instance of a kind of forced self-betrayal', in which the torturer and the tortured must be placed in a distinctive kind of relationship where the victim of torture *is* and *understands himself or herself to be* completely at the mercy of the torturer.[75] This kind of relationship requires two distinct elements, which are illustrative in terms of their departure from other forms of human relationship that may be unhealthy or under duress. First, there is what Sussman calls a 'profoundly asymmetric relationship of dependence and vulnerability between the parties' and, second, the torture victim must see himself or herself as 'being unable to put up any real moral or legal resistance' to his or her torturer'.[76] What is particularly astute about Sussman's analysis is that he allows us to make distinctions *both* (1) between acts of torture and other violent acts that may also cause pain, injury, humiliation, or death, *and* (2) between the *acts* of torture and the *relationship* that makes those acts possible qua 'torturous' acts. Inasmuch as the relationship in which torture takes place is an essentially dehumanizing one, intended to reduce the victim of torture to a compliant and complicit object, then we are forced to see it as anathema to the fundamental principles of democracy.

How does torture come to be seen as a possibility in and for democracies, then? One way of thinking about that possibility is as a result of democratic ideals being submitted to the same kind of coercion and force to which the torturer submits his or her victim. That is, democracy is forced into a kind of 'self-betrayal' when its only option is to secure itself by whatever means necessary. Or, to borrow Agamben's parlance again, 'when human action with no relation to law stands before a norm with no relation to life', democracy has already been fundamentally compromised, because the principled respect for 'law' and for 'life' is what distinguishes democracy from other, totalitarian or

oppressive, forms of governance. If we take Derrida's analysis of democratic autoimmunity seriously, there is no escaping this double-bind of *security* and *insecurity*, both of which democracy demands in equal parts at every turn. Yet, it is critical to remember that this double-bind does not commit us in advance to any particular course of action – 'in the interest of democracy' or otherwise – and in that way it is a true *aporia*. It requires both judgment and decision. Furthermore, those judgments and decisions must be made with some reflective sense about what democracy *is*, what it *means*, and what sorts of activities it permits or forbids in its name. If the putative options available to a democracy cannot be reconciled with democratic principles, then that democracy is forced to give up its claim to the name 'democracy' or to declare itself as an 'exception' to its own principles. Unfortunately, both of these options result, as Derrida rightly demonstrated, in a phenomenon of 'murder' slowly transforming into 'suicide', and vice versa.

4 Conclusion

The trope of 'democratic autoimmunity' is helpful not only for understanding how terrorism and torture come to contaminate extant democracies, but also for understanding the *structural vulnerabilities* to which democracy is ever in danger of falling prey. Rather than resigning democrats to a paralytic place – or, what is worse, to a passive and non-reflective place – Derrida's analysis of democracy's constitutive weaknesses allows us to reaffirm with eyes wide-open our commitments to participation, critique, deliberation and vigilance against the sorts of practices that would make any of those democratic ideals irrelevant. On the other hand, if we persist in viewing our own anti-democratic activities as 'exceptions' and the anti-democratic activities of others as the work of 'rogues', then we will be left with nothing at our disposal save our best utilitarian calculations toward merely utilitarian ends. Because democracy is an 'open' system, like the human body, and because its survival *as democracy* requires that it never completely close itself off to what is outside of it, it will always be at risk. To secure the health and sustenance of a democracy, mere calculations will never do; in fact, 'mere' calculations are contrary to the history of the idea. Rather, democracy requires decisions, often in the face of a host of non-ideal options, and those decisions must be entered upon precariously, carefully and with real conceptual clarity about the dangers to which all democracy is susceptible. Without good-faith philosophical efforts at this clarity, we risk terrorizing and torturing democracy beyond the point of anything recognizably relevant to the long tradition from which we inherited it.

Notes

1. The United States Law Code – the law that governs the entire country – contains a definition of terrorism embedded in its requirement that Annual Country Reports on Terrorism be submitted by the Secretary of State to Congress every year. In *U.S. Code Title 22, Ch.38, Para. 2656f(d)*, 'terrorism' is defined as: 'premeditated, politically motivated violence perpetrated against non-combatant targets by subnational groups or clandestine agents'.
2. The United Nations Convention Against Torture agreement, to which the United States is a signatory, defines 'torture' as: 'any act by which severe pain or suffering, whether physical or

mental, is intentionally inflicted on a person for such purposes as obtaining from him, or a third person, information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in, or incidental to, lawful sanctions.' The full text of the UN 'Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment', UN General Assembly Resolution 39/46 of 10 December 1984 (*entry into force* 26 June 1987, in accordance with Article 27.1), is available from the United Nations Office of the High Commissioner for Human Rights at: http://www.unhchr.ch/html/menu3/b/h_cat39.htm

3. In fact, Derrida asserted in his seminal essay 'Force of Law' that deconstruction is generally practised in two ways, the first of which is to take on aporias, or what he calls 'the demonstrative and apparently ahistorical allure of logico-formal paradoxes'. See Jacques Derrida, 'Force of Law: The ''Mystical Foundations'' of Authority', *Cardozo Law Review* 11(5–6) (1990): 921–1045.

4. Aristotle's *Metaphysics* book beta is a list of aporias that preoccupy the rest of the text. At line 995a24, Aristotle claims that 'with a view to the science we are seeking, it is necessary that we should first review the things about which we need, from the outset, to be puzzled'. Aristotle, *Metaphysics*, trans. J. H. McMahon (New York: Prometheus Books, 1991).

5. Jacques Derrida, 'Awaiting (at) the Arrival', in *Aporias* (Stanford, CA: Stanford University Press, 1993), p. 78.

6. ibid.

7. For other examples of *aporias* in Derrida's work, see the *aporia* of the gift as elaborated in Jacques Derrida, *The Gift of Death*, trans. D. Willis (Chicago, IL: University of Chicago Press, 1995) and *Given Time*, vol. I, *Counterfeit Money*, trans. P. Kamuf (Chicago, IL: University of Chicago Press, 1992); the *aporia* of friendship as elaborated in Jacques Derrida, *The Politics of Friendship*, trans. G. Collins (London: Verso, 1997); the *aporia* of forgiveness as elaborated in Jacques Derrida, *On Cosmopolitanism and Forgiveness*, trans. M. Dooley and M. Hughes (London: Routledge, 2001); the *aporia* of hospitality as elaborated in Jacques Derrida, *Of Hospitality*, trans. R. Bowlby (Stanford, CA: Stanford University Press, 2000); the *aporia* of memory/mourning as elaborated in *Memoires: For Paul de Man*, trans. C. Lindsay, J. Culler, E. Cadava and P. Kamuf (New York: Columbia University Press, 1989).

8. See Jacques Derrida, *Rogues: Two Essays on Reason*, trans. P.-A. Brault and M. Naas (Stanford, CA: Stanford University Press, 2005) and Jacques Derrida, 'Autoimmunity: Real and Symbolic Suicides', in *Philosophy in a Time of Terror: Dialogues with Jürgen Habermas and Jacques Derrida*, ed. and trans. G. Borradori (Chicago, IL: University of Chicago Press, 2003), pp. 85–136.

9. Alex Thomson, 'What's to become of ''Democracy to come''?', *Postmodern Culture* 15(3) (January 2005).

10. See part II, 'Nature, Culture, Writing', in Jacques Derrida, *Of Grammatology*, trans. G. Spivak (Baltimore, MD: Johns Hopkins University Press, 1974) and 'Plato's Pharmacy', in *Dissemination*, trans. B. Johnson (Chicago, IL: University of Chicago Press, 1981).

11. *Deconstruction in a Nutshell*, ed. John Caputo (New York: Fordham University Press, 1997), p. 9.

12. 'Faith and Knowledge: the Two Sources of "Religion" at the Limits of Reason Alone', in Gil Anidjar (ed.) *Acts of Religion* (New York: Routledge, 2002), pp. 40–101.

13. Derrida writes: '[religion] conducts a terrible war against that which gives it this new power only at the cost of dislodging it from all its proper places, *in truth from place itself*, from the *taking-place* of its truth. It conducts a terrible war against that which protects it only by threatening it, according to this double and contradictory structure: immunitary and auto-immunitary ('Faith and Knowledge', p. 82).

14. Derrida, *The Politics of Friendship*, pp. 297–8.

15. ibid., pp. 75–111. See also Carl Schmitt, *The Concept of the Political*, trans. G. Schwab (New Brunswick, NJ: Rutgers University Press, 1976).

16. I discuss this ambiguous relationship between security and risk further in my essay 'Risking Our Security, or securing Our Risk?: Neoimperialists play with a Stacked Deck', *Contretemps* 4 (September 2004): 45–57.

17. It should not be forgotten that risks are never simple affairs for Derrida; this risk always 'charges itself twice. . . . Two times rather than one: with a menace and with a chance' ('Faith and Knowledge', p. 82).

18. Derrida, 'Autoimmunity', p. 99.

19. 'Algeria: Human Rights Developments', *Human Rights Watch World Report 1993* (Middle East Overview), available at: www.hrw.org/reports/1993/WR93
 The preceding synopsis of the Algerian events of 1992 is taken from the same report.

20. Derrida, *Rogues*, pp. 34–5.

21. ibid.

22. ibid., p. 35.

23. Derrida mentions the rejection of Pinochet (in Chilean elections) and the almost-election of Le Pen in France as examples of the manner in which it is difficult to distinguish between democratic practices that restore and those that threaten democracy. The case of the Afrikaaner National Party's 'electoral' victory in South Africa in the 1940s or the 2005 election of Hamas in Palestine are also illustrative examples.

24. Derrida, *The Politics of Friendship*, p. 105.

25. Derrida, 'Autoimmunity', p. 120.

26. ibid., p. 121; emphases added.

27. Thomson, 'What's to become'. See also Alex Thomson, *Democracy and Deconstruction* (London: Continuum, 2005), in my view the best elucidation of Derrida's complicated and provocative relationship to democracy.

28. Thomson, 'What's to become'.

29. Jacques Derrida, 'Passions', in *On the Name*, ed. Thomas Dutoit, trans. David Wood (Stanford, CA: Stanford University Press, 1995), p. 15.

30. Derrida, 'Autoimmunity', p. 120.

31. ibid.

32. See ibid., pp. 88–90 and *passim*.

33. ibid., p. 94.

34. ibid., p. 95.

35. See Mahmood Mamdani, *Good Muslim, Bad Muslim: America, the Cold War, and the Roots of Terror* (New York: Doubleday, 2004), esp. chs 2–4.

36. ibid., p. 119.

37. *Mujahideen* is the Arabic term for those who engage in holy war (*jihad*, or 'struggle'). The word is a plural form of *mugahid*, which literally translates from the Arabic as 'struggler' but is often translated in the West as 'holy warrior'. The Afghan *mujahideen* were significantly financed, trained and armed in their struggle against Soviet occupation during the Carter and Reagan administrations.

38. Eqbal Ahmed, 'Genesis of International Terrorism', *Dawn* (Karachi) (5 October 2001).

39. See David Schwartzman, *Games of Chicken: Four Decades of U.S. Nuclear Policy* (New York: Praeger, 1997).

40. See John Nash, 'Non-Cooperative Games', *The Annals of Mathematics* 54(2) (1951): 286–95.

41. Derrida, 'Autoimmunity', p. 96; emphases added.

42. ibid., p. 97.

43. ibid., p. 98.

44. ibid., p. 99.

45. ibid.

46. ibid.

47. ibid.

48. See Michel Foucault, *Power/Knowledge: Selected Interviews and Other Writings, 1972–1977*, trans. C. Gordon *et al.* (New York: Pantheon Books, 1980) and Michel Foucault, *History of Sexuality*, vol. 1, trans. R. Hurley (New York: Vintage, 1990). Additionally, in his 17 March 1976 lecture at the Collège de France, Foucault addressed what he called the 'adjustments of power' in modern society that result in a 'suicidal' tendency strikingly similar to Derrida's analysis of autoimmunity. See Michel Foucault, *Society Must Be Defended: Lectures at the Collège de France, 1975–1976*, ed. Mauro Bertani and Alessandro Fontana, trans. D. Macey (New York: Picador, 1997), pp. 239–64.

49. Foucault, *History of Sexuality*, vol. 1, p. 92.

50. Robert Young, *Postcolonialism: An Historical Introduction* (Malden, MA: Blackwell, 2001), pp. 117–18.

51. Derrida, 'Autoimmunity', p. 104.

52. ibid., p. 103.

53. Derrida, *Rogues*, p. 41.

54. For comparison, see Noam Chomsky, *Rogue States: The Rule of Force in World Affairs* (Cambridge, MA: South End Press, 2000), which Derrida references for the 'unimpeachable case' that Chomsky lays out 'supported by extensive, overwhelming, although in general not widely publicized or utilized information, against American foreign policy'.

55. Derrida, *Rogues*, p. 96.

56. ibid.

57. *21st Century U.S. Military Documents: U.S. Army Intelligence Field Manual 34-52 – Questioning Processes, Captured Enemy Documents* (Washington, DC: Department of Defense, 2005). The relevant section of the *Army Field Manual* is FM 2-22.3, 'Human Intelligence Collector Operations'.

58. 'Geneva Convention relative to the Treatment of Prisoners of War' was adopted on 12 August 1949 by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Prisoners of War (*entry into force* 21 October 1950). The full document of the Geneva Convention is available from the United Nations Office of the High Commissioner for Human Rights at: http://www.unhchr.ch/html/menu3/b/91.htm

59. See note 2 above.

60. See Seymour Hersh, 'Torture at Abu Ghraib', *The New Yorker*, 10 May 2004; Philip Gourevitch, 'Exposure: The Woman Behind the Camera at Abu Ghraib', *The New Yorker*, 24 March 2008; Michael Keller, *Torture Central: Emails from Abu Ghraib* (New York: Universe, 2007); Joshua Casteel, *Letters from Abu Ghraib* (New York: Essay Press, 2008).

61. See Steve Vogel, 'Afghan Prisoners going into Gray Area', *The Washington Post* (9 January 2002); *Hamdan* v. *Rumsfeld*, United States Supreme Court Case 05-184 (argued 28 March 2006, decided 29 June 2006); Mahvish Khan, *My Guantanamo Diary: The Detainees and the Stories They Told Me* (Washington, DC: PublicAffairs, 2008); Philippe Sands, *Torture Team: Rumsfeld's Memo and the Betrayal of American Values* (New York: Palgrave Macmillan, 2008); Andrew Worthington, *The Guantanamo Files: The Stories of the 774 Illegal Detainees in America's Prison* (London: Pluto Press, 2007).

62. Waterboarding (also known as 'water torture', *tormenta de toca*, or the 'water cure') is a technique that involves choking the victim by filling his or her throat with a steady stream of water, resulting in the experience of 'slow drowning'. See Eric Weiner, 'Waterboarding: a Tortured History', *National Public Radio* (3 November 2007). Full transcript available at: http://www.npr.org/templates/story/story.php?storyId=15886834)

63. See Jack Goldsmith, *The Terror Presidency: Law and Judgment Inside the Bush Administration* (New York: W. W. Norton, 2009) and Charlie Savage, *Takeover: The Return of the Imperial Presidency and the Subversion of American Democracy* (New York: Back Bay/ Little, Brown, 2008).

64. See Mike Allen and Dana Priest, 'Memo on Torture draws Focus to Bush', *The Washington Post* (9 June 2004).

65. For a fuller treatment of the 'law of nations' (also known as 'international law'), see Malcolm Shaw, *International Law*, 5th edn (Cambridge: Cambridge University Press, 2003). For a philosophical consideration of American exceptionalism, see the collection edited by Michael Ignatieff, *American Exceptionalism and Human Rights* (Princeton, NJ: Princeton University Press, 2005).

66. United States Central Intelligence Agency, *KUBARK Counterintelligence Interrogation* (July 1963). The full (unredacted) text of KUBARK is available at: http://www.torturingdemocracy.org/documents/19630700.pdf
    The KUBARK manual includes a detailed section on 'The Coercive Counterintelligence Interrogation of Resistant Sources', with concrete assessments on employing 'Threats and Fear', 'Pain', 'Debility' and 'Narcosis' among other sanctioned 'coercive' techniques.

67. Spencer Ackerman, 'CIA Largely in the Dark on Interrogation Tactics', *Washington Independent* (28 January 2008).

68. *KUBARK*, p. 86.

69. Hersh, 'Torture at Abu Ghraib'.

70. See Giorgio Agamben, *State of Exception*, trans. K. Attell (Chicago, IL: University of Chicago Press, 2005) and Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. G. Schwab (Cambridge, MA: MIT Press, 1985).

71. Agamben, *State of Exception*, p. 3.

72. ibid., p. 86.

73. See Jacques Derrida, 'Declarations of Independence', *New Political Science* 7(1) (Summer 1986): 7–15.

74. David Sussman, 'What's Wrong with Torture?', *Philosophy and Public Affairs* 33(1) (Winter 2005): 1–33 (4).
75. ibid., 6 and *passim*.
76. ibid., 6–7.