

# MADDENING STATES

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■ **Abstract** Despite transformations in the character of the state in an age of globalization, news of its demise is certainly exaggerated. Even as operations of state (or state-like) power exceed the boundaries of the nation-state to be deployed by actors such as transnational nongovernmental organizations, private corporations, guerrilla groups, or narcotraffickers, the state form shows remarkable tenacity and adaptability. Invested with a kind of meta-capital, the state remains a crucial presence, a screen for political desires and identifications as well as fears. This review addresses recent academic reflection on the field of knowledge we call the state. It asks how the state becomes a social subject in everyday life, examining the subjective experience of state power and tracing its effects on territories, populations, and bodies. Finally, it considers the ways violence, sexuality, and desire work in the intimate spaces of state power.

*Begoña Aretxaga's essay was left among her papers in an almost complete form at the time of her untimely death. A collective, consisting of James Brow, Charles Hale, Yael Navaro-Yahsin, Geeta Patel, Brandt Peterson, and Pauline Strong, worked to fill in citations, answer questions Begoña posed to herself, which were unresolved, and to lightly edit the final form of this essay. This piece has not been changed substantially. In an effort to keep to the form and spirit of Begoña's interrogations the essay stands as it was, without a literal conclusion. Perhaps a conclusion can be supplied by readers engaged in an ongoing analysis of contemporary political situations, to which Begoña's work speaks profoundly, as a legacy that this essay and her extended oeuvre bequeathed to us.*

## INTRODUCTION

During the past decade the field of knowledge that we call the state has become the object of renewed academic reflection by anthropologists and scholars in other fields. During the 1980s and mid-1990s studies of globalization seemed to point to the radical weakening and transformation, if not disappearance, of the modern state (Appadurai 1993, 1996; Hannerz 1996; Kearney 1995; Ong 1999; Tsing 2000). States' borders and economies were being challenged, if not erased, by neoliberal

transnational corporations, by higher-order political processes of unification such as the formation of the European Union, or by those set in motion by the fall of the Berlin Wall and the transitions from authoritarian regimes to democratic ones. War and war economies in Africa, Latin America, and Asia made a joke of the monopoly of state violence by showing the crucial role of other actors (warlords, guerrillas, narcotraffickers) in inflicting violence, displacing populations, and organizing economic and political networks (Steinmetz 1999). Refugees and migrants were crossing state borders and challenging both territorial sovereignty and homogeneous definitions of the nation-state. Diasporic forms of identification coexisted (if not competed) with nationalist identities. So too the traditional functions of the state as regulator of diverse areas of social life such as law, education, health, crime, national security—what Althusser (1971) called the “state apparatus”—were being substituted by private companies and institutions. To give just one example, the penal system, which was once the paradigm of the modern, panoptic disciplinary sovereignty accompanying the emergence of the modern state, has become in the United States a large, private, profitable business that has abandoned any pretension to reform and has embraced a racialized logic of pure containment and abandon, where the simultaneous enticement to and suppression of violence seem to be the only rule (Hallinan 2001). So too have nongovernmental organizations (NGOs), aid organizations, and transnational entities like the World Bank, rather than local communities or state officials, determined development and political projects (Ferguson 1990, Gupta 1998, Hale 2002, Trouillot 2001). And yet, in spite of this inexorable logic of neoliberal capitalist globalization, or as Comaroff & Comaroff call it “millennial capitalism” (Comaroff & Comaroff 2000a), which has eroded those functions of the Weberian state that were once its defining feature, the state form can hardly be said to have withered away (Comaroff & Comaroff 2000a, Trouillot 2001). Since 1945, the number of states has more than quadrupled. From 1989, when the Berlin Wall fell, to 1994 there were 22 new states created (Nagengast 1994), and the number has increased since then. The desire for statehood continues to be intense in many parts of the world, in spite, or perhaps because of, the hollowed-out character of the state. Struggles for statehood help to sustain ethnic conflicts, processes of insurgency and counterinsurgency, war economies, international interventions, refugee camps, and torn societies. The commanding power of the state form can partly be understood because the state holds a sort of meta-capital (Bourdieu 1999), its hallowed form commanding an imagery of power and a screen for political desire as well as fear. There is also real capital circulating through the elusive body of the state in the form of international aid, development projects, and capitalist ventures of various kinds. This aura of capital associated with the state is often transformed into a discourse of corruption when people encounter the doubtful practices of local bureaucrats (Gupta 1995). The corrupt state also acquires visibility through highly publicized events highlighted by the mass media (Navaro-Yashin 2002). In marginal locales the images of corruption mix with those of consumption

giving rise to discourses and sentiments of abandonment by the state (Berdaahl 1999). Globalization is not only compatible with statehood; it has actually fueled the desire for it, whether to have access to resources and powers experienced, imagined, or glimpsed or to defend an ethnic group against the violence of another state, one of the arguments forwarded by Basque insurgents in the Basque country.

Foucault's analysis of power as a field of multiple forces challenged the notion of the state as a unitary center of power, and more specifically it challenged the notion that the state was necessarily the most important target of political struggles (Foucault 1978, 1979, 1991). His inquiries of governmentality and bio-power inspired a whole field of research of power that were outside the field of state studies. The notions of governmentality as well as bio-power have returned, however, to rethink the notion of the state in a new light as a contradictory ensemble of practices and processes (Brown 1995, Mitchell 1991, Trouillot 2001) and as new managements of life and death (Agamben 1998). Repositioning the question of the state in relation to the meaning of sovereignty also seems to me particularly crucial, especially after September 11, 2001.

The question of desire as well as fear becomes most crucial in rethinking the kind of reality the state might be acquiring at this moment of globalization, not only of capital, services, and culture but also of security operations and states of emergency. The question of subjectivity emerges as critical in a variety of ways. On the one hand, there are the subjective dynamics that link people to states, something that Weber already pointed out; on the other hand is what one could call the subjectivity of the state being (Taussig 1992, 1997). How does it become a social subject in everyday life? This is to ask about bodily excitations and sensualities, powerful identifications, and unconscious desires of state officials (Aretxaga 2000a, 2001a); about performances and public representations of statehood; and about discourses, narratives, and fantasies generated around the idea of the state. The state cannot exist without this subjective component, which links its form to the dynamics of people and movements. A major part of this essay is therefore devoted to this problem.

There are other dimensions of statehood I have left out for reasons of space and preference, not for reasons of importance. These are questions relative to state formation and postcolonial state practices. I use state form to emphasize the notion of a powerful state devoid of content, which then serves as a screen for a variety of identifications and as a performative mask (Abrams 1988) for a variety of power discourses and practices. In using the notion of state form I echo Balibar's notion of national form as a repository of ideas, images, and ideologies, which are not predetermined (Balibar & Wallerstein 1991, Žizek 1993). In this way I attempt to leave the state as both an open notion and an entity, the presence and content of which is not taken for granted but is the very object of inquiry. By thinking about the state in this way, I want to emphasize the power it still conveys; its social and political presence can hardly be ignored.

## THE UNTENABLE HYPHEN

It has been difficult to think of the state outside the hyphenated dyad “nation-state.” States have appeared as actively promoting national cultures (Handler 1988), creating national narratives (Borneman 1993, 1998) that could organize and give shape to collective subjectivities. They have actively engaged in the production of national fantasies of *communitas* (Berlant 1993, Grant 2001) in a variety of ways, from monumentalization of heroism aimed at creating collective memory and myth, to monumentalization of fable and folktale projecting the erasure of memory and the infantilization of the nation. In studies of nationalism, states often figure as being actively involved in creating “imagined (national) communities” (Anderson 1991 [1983]), cultural intimacies through narrative, media, ritual, pageantry, and public works that link the public sphere to the domestic and local scenes (Borneman 1998, Herzfeld 1997). Nationalist movements have also aspired and fought for states of their own, linking the desire for statehood to nationalist proclamations and often to opposition to another state (perhaps seen as oppressor or colonizer).

Yet if the nation and state are joined in ambiguous ways (Trouillot 1990), the notion of the nation-state has also obscured the instability and deeply problematic nature of such a seemingly self-evident link. On the one hand, the fantasy of a unified, imagined nationalist community clashes with internal differences and power struggles. Differences in class, gender, ethnicity, and status create *de facto* differences in citizenship. The impact of state power is felt differently at various levels of the national community. At the margins of the polity and at the local level, encounters with the state are often experienced in an intimate way where power is experienced close to the skin, embodied in well-known local officials, through practices of everyday life (Das 2003). This encounter with the state at the local level often takes the form of a discourse of corruption (Gupta 1995), but it can also take the form of profound ambivalence and a discourse of abandonment, as in the remote areas of Colombia where who acts as the state is disputed among a number of actors: the military, the guerrilla, the drug lords (Ramirez 2001). Local officials are caught in a situation divided by impotence and responsibility to their communities, always uncertain about the impact of state power in its different incarnations. The imagined national state, which is supposed to provide for its citizens, seems remote and careless, not fulfilling its obligations and generating a discourse of state deficit, an insufficient state which has abandoned its citizens. In fact, there is not a deficit of state but an excess of statehood practices: too many actors competing to perform as state. Longings for a good paternalistic state coexist with a nationalist discourse of citizenship. At the margins of polities and global economies, the desire for a good state can take the form of struggles for full citizenship (Aretxaga 1997, Hardt & Negri 2000, Ramirez 2001, Warren 1993). The nationalist discourse of citizenship remains attached in the social imaginary to the state but clashes with the actual experience of marginalization, disempowerment, and violence.

The experience of disjunction in the status of citizenship is sometimes covered up by what Girard (1979) called the “scapegoat,” an outsider, or an outsider-insider, a ritual repository of the jarring violence inhabiting the national community. Riots against ethnic others can be an example of such attempts to rid the imagined national space of its inherent violence (Tambiah 1997). While it is certainly the case that all sorts of manipulations and political interests are part of what triggers ethnic violence (Brass 1997, Das 1990, Warren 1993), we should also direct close attention to a recurrent dynamic that exceeds strategic manipulation in which violence within the national community is displaced to an insider-outsider, a familiar stranger forcefully cast out of the polity.

In the centers of global power such displacements have also become the norm. In Europe, immigrants often become targets of practices of violence by state institutions, right-wing organizations, and disaffected citizens (Balibar & Wallerstein 1991, Žižek 1997). Processes of unification, such as those of eastern and western Germany, have created their own targeted lesser citizens too (Berdahl 1999). In societies where old regimes have given rise to new ones there are often deep fissures between state and government, a corollary of a situation in which the bureaucracy and the administration are left in place while the government changes. In places like Russia, organized crime can function as a veritable para-state (Comaroff & Comaroff 2000a).

Discourses of patriotism and practices of war against a magnified enemy such as terrorism disguise differences in power and the internal violence of the nation around a national unity to combat a common enemy (Aretxaga 2001a, Zulaika & Douglass 1996). Yet the violence of security apparatuses can also turn into the homeland policing of the state’s own citizens in a paranoid gaze that curtails civil rights and extends terror through the social field. It is in the studies of violence that the state—what we imagine as the state, what we call the state, that ensemble of discourses and practices of power, that elusive subject that can so much affect the life of citizens—appears most clearly as working against the nation (Trouillot 1990). The very concept at the heart of the nation, “the people,” becomes an object of fear and violence by a state that wants to have absolute control of a nation it is at once dividing and destroying. “The people” is invoked and torn apart through the creation of ever-present enemies: criminals, communists, subversives, guerrillas, terrorists (Daniel 1996, Denich 1994, Nelson 1999, Ramirez 2001, Siegel 1998, Taylor 1997).

There is also a gender dimension to the instability of the nation-state link. In societies torn by the terror of the violence of military rule such as Argentina and Guatemala, the state is represented and enacted through military performances of masculinity while the nation is feminized into idealized, desexualized maternity. Actual women, who remain outside this imaginary of idealized motherhood, are a reminder of what cannot be fully controlled in the nation—the object of sexual-political violence in endless performances of violent control of the body of the nation by the state body (Nelson 1999, Taylor 1997). So too in societies torn by ethnic violence or war, women have become the embodiment of a threatening

nation or a threatening ethnic other; their bodies become the field through which violent statehood not only enacts but draws its power (Aretxaga 2000a, Das 1996). This is the case not only in Bosnia but also in Algeria, India, Rwanda, and South Africa. The imaginary of the nation-state is organized in a variety of ways: as romance or idealized domestic space and inhabited by an ongoing nightmare of sexualized and racialized violence in which the masculinity of statehood becomes a constant threat rather than a benevolent agent. This is a situation in which a repetition-compulsion of violence might be coupled with a compulsion of desire for a harmonic but illusory nation-state. The state should then be thought of in ways that are not necessarily totally dislodged from the nation but neither attached to it. Rather one should consider a variety of relations that are ambivalent, ambiguous, hostile, violent, porous . . . in which the nature of the hyphen is more a cipher than a self-evident reality.

## THE GOVERNMENT OF BODIES

The violence and terror spread by totalitarian regimes or/and military bodies has often been considered an attack of the state on civil society; yet this sharp distinction between state and civil society has been questioned in recent scholarship on the state (Alonso 1994, Aretxaga 2000b, Borneman 1998, Brown 1995, Gupta 1995, Mitchell 1991, Navaro-Yashin 2002, Trouillot 2001). The separation between civil society and the state does not exist in reality. Rather, the state as phenomenological reality is produced through discourses and practices of power, produced in local encounters at the everyday level, and produced through the discourses of public culture, rituals of mourning and celebration, and encounters with bureaucracies, monuments, organization of space, etc. The state has to be considered as the effect of a new kind of governmentality (Mitchell 1991); it appears as an open field with multiple boundaries and no institutional or geographical fixity (Trouillot 2001). It is recognizable through its multiple effects. The state has lost many of the ordering functions that produced the effect of a unitary force such as the organization of health care, education, economic production, imprisonment, and military and policing interventions, which are, in many cases, contracted to private companies; on the other hand, aid organizations, NGOs, private entrepreneurs, security companies, and warlords are acting as state and producing the same powerful effects. "The paradox of what we call the state is at once an incoherent, multifaceted ensemble of power relations and a vehicle of massive domination . . . despite the almost unavoidable tendency to speak of the state as an 'it' the domain we call the state is not a thing, system or subject, but a significantly unbounded terrain of powers and techniques, an ensemble of discourses, rules and practices cohabiting in limiting, tension ridden, often contradictory relation to each other" (Brown 1995, p. 174). One strategy for studying the state will be to "focus on the multiple sites in which state processes and practices are recognized through their effects" (Trouillot 2001, p. 126), looking for encounters that are not immediately transparent. The sites of everyday life become "a central domain for the production and reproduction of the state" (Navaro-Yashin 2002, p. 135).

Critiques of the state as a unitary center of power have drawn on Foucault's critique of state as the structure (Poulantzas 1978) or apparatus (Althusser 1971) that defines the locus of power. Foucault's studies of governmentality suggested the rise of a new kind of sovereign power from the eighteenth-century, one in which the power of the absolute sovereign was replaced by an array of practices and discourses aimed at the ordering and control of bodies and populations. The emergence of statistics, new notions about health and contagion, madness and sanity, sexuality and reproduction, techniques of surveying and mapping and census, new institutions such as the clinic and the prison, and the discourses of the social sciences were aimed at rendering populations and bodies legible, disciplined, and controlled. State officials deployed this legibility to create their own fictions of reality. These fictions of the state then turn into nightmares animated by utopian visions of efficiency and technological and bureaucratic control:

The economic plan, survey map, record of ownership, forest management plan, classification of ethnicity, passbook, arrest record and map of political boundaries acquire their force from the fact that these synoptic data are the points of departure from reality as state officials apprehend and shape it. In dictatorial settings where there is no effective way to assert another reality, fictitious facts-on-paper can often be made eventually to prevail on the ground, because it is on behalf of such pieces of paper that police and army are deployed. . . . [T]he categories used by state agents are not merely means to make their environment legible, they are an authoritative tune to which most of the population must dance. (Scott 1998, p. 83)

In the era of globalization, practices of legibility and control are carried by a variety of organizations and take a variety of forms that nevertheless produce state-like effects so that the state continues to be a powerful object of encounter even when it cannot be located. In the margins and borders of global spaces and polities, but perhaps also in the marginal spaces of western cities (Aretxaga 1997, Balibar & Wallerstein 1991), the will to legibility present in the violence of the checkpoint or the police questioning of immigrants turns into a repetition of illegibility and uncertainty about the outcome of the encounter; *de facto*, an arrest of temporality (Das 2003), an intimate secrecy in which the fictions of the state about the people it fears, gets locked in with the fictions people at the margins have about the state (Taussig 1997). What is interesting here is that it is not only the people who imagine the state but also the state itself in its multiple incarnations that has, and enacts, its own fantasies (Siegel 1998). This mirroring dynamic between the imaginary relation of those embodying the state and those who encounter their effects in everyday life emerges indirectly from studies of the state (Taussig 1993, 1997). This idea suggests a subjective dynamic that produces and reproduces the state as objects of fear and attachment, of identification or disavowal, as subjects of power, elusive, unlocatable, ever present, immensely powerful, or impotent. It alerts us to what Judith Butler has called "the psychic life of power" (1997).

## THE POWER OF A FICTION

The subjective dynamic that sustains the state as a powerful, inescapable, social reality has been noted by anthropologists and other social theorists. Weber, who defined the state as “a compulsory association which organizes domination” through the means of physical force (Gerth & Mills 1946), also understood that “in reality, obedience [to the legality of the state] is determined by highly robust motives of fear and hope—fear of the vengeance of magical powers within the power-holder, hope for reward in this world or in the beyond—and besides all this, by interests of the most varied sorts” (Gerth & Mills 1946). So too does George Simmel call attention to this subjective dynamic that makes the state a powerful reality (1955). Early political anthropology also wrestled with the notion of the state. In his introduction to the classic *African Political Systems*, Radcliffe-Brown makes explicit that the state as a unitary entity is a fiction:

In writing on political institutions there is a good deal of discussion about the nature and origin of the State, which is usually represented as being an entity over and above the human individuals that make up a society, having as one of its attributes something called “sovereignty,” and sometimes spoken of as having a will (law being often defined as the will of the State) or as issuing commands. The State in this sense does not exist in the phenomenal world; it is a fiction of the philosophers. (Fortes & Evans-Pritchard 1940, p. xxiii; Taussig 1992; Trouillot 2001)

In a seminal paper Phillip Abrams also calls attention to the fictional character of the State (Abrams 1988), strongly questioning (like Radcliffe-Brown) the materiality of this “fictional reality” (Aretxaga 2000a). The difficulty in studying the state resides in the fact that the state—as unified political subject or structure—does not exist; it is a collective illusion, the reification of an idea that masks real power relations under the guise of public interest:

[T]he state is not the reality which stands behind the mask of political practice. It is itself the mask which prevents our seeing political practice as it is [. . .] It starts its life as an implicit construct; it is then reified—as the *res publica* [. . .] and acquires an overt symbolic identity progressively divorced from practice as an illusory account of practice. The ideological function is extended to a point where conservative and radicals alike believe that their practice is not directed at each other but at the state. The world of illusion prevails. (Abrams 1988, p. 58)

The illusion of the state as the subject of domination hiding behind political practice is sustained in no small measure by a shroud of secrecy surrounding the being of the state (Taussig 1992, 1997). The secrecy and the anxiety that accompanies this ungraspable character of power is elaborated in public culture in a variety of ways, including news reporting (Navaro-Yashin 2002) and television series like the American-produced “X-Files,” generating a derealization of reality,

or a sense of the state as virtual reality (Aretxaga 1999), as the powerful Wizard of Oz determining people's lives. In locations where the state is felt as arbitrary violence, the force of the state is experienced as a traumatic emergence of the Real that breaks the parameters and assumptions of ordinary reality—as, for example, with the discovery of the extent of information about people accumulated by the Stasi secret police in East Germany or the discovery that close relatives had acted as spies (Rosenberg & Lukens 1993). This sense of an invisible, all-powerful subject has been elaborated beautifully in creative literature as well. One only has to think of Milan Kundera's *The Book of Laughter and Forgetting* (1981), in which the Soviet state appears as the invisible hand that alters history by erasing public figures from official photographs. This is the kind of traumatic power over life and death held by the fictional reality of the state elaborated by Kafka in *The Trial* (1964) and other stories. In places like Argentina, with its spectacular disappearances, Guatemala, Colombia, Sri Lanka, the former Yugoslavia, and a great part of Africa, violence enacted by different armies, not just by the state but by those aspiring to statehood, has created un-nameable "spaces of death" (Taussig 1986) without borders, nightmarish realities in which the habitual references that organize reality have been systematically broken, giving rise to powerful phantasmatic states or state-like organizations (Comaroff & Comaroff 2000b, Daniel 1996, Malkki 1995, Nelson 1999, Suárez-Orozco 1992, Tambiah 1996, Taylor 1999, Warren 1993).

For Abrams as for other scholars, the mystifying illusion of a center of power called the state must be unmasked for the reality of disparate relations of power to emerge. Yet to gaze into the labyrinthine interiority of state being (as in truth commissions or when the archives of the Stasi were opened) does not necessarily dispel its mystifying, magical power. On the contrary, such mystifying power often seems to be augmented by such unveiling of the state's scandalous life, triggering an endless proliferation of discourses about the state at all levels of social life. But to talk of the state as a fiction does not necessarily mean falsity but rather, as Clifford Geertz (1973) said long ago, a certain genre of representation, a particularly powerful one. If the fictional reality of the state is socially powerful, then scholars must focus not only on those discourses and practices that produce this state form as real but also on the actual social and subjective life of this formation we call the state. If the state appears and acts as having a life of its own, then we are in the presence of a fetish and must ask for the powerful ways in which this fetish works (Nelson 1999; Taussig 1993, 1997). To look for state effects is also to follow the ways in which those identified as the state enact their fantasy vis-à-vis those others it considers its enemies (Taussig 1997, Zulaika & Douglass 1996).

## FANTASY, FETISH, SENSUALITY

One of the areas where fantasy has entered state discourse and practice has been the expanding field of terrorism. On the one hand, official documents reproduce plots and narrative forms from novels or films about terrorism. On the other hand,

journalists covering terrorist subjects often turn to fiction writing about terrorism (Zulaika & Douglass 1996). In much of the literature about terrorism, “the brandishing of stark facts goes hand in hand with great leaps into discursive fantasy” (Aretxaga 2001a; Zulaika & Douglass 1996, p. 4). The boundaries between fiction and reality become indistinguishable, endowing encounters between the state and terrorism with a phantom quality (Aretxaga 2001a; Zulaika & Douglass 1996, p. 14). Such indistinguishability creates not only forceful interventions within particular political fields (military interventions, unjustified arrests, torture) but also political cultures “of uncertainty and fear [that] mark the bodies of its subjects to the point of haunting them” (Navaro-Yashin 2002, p. 181). Such haunting by the persecutory power of the state does not face in only one direction. Those identified as state—government officials, politicians, military personal, policemen, judges, prosecutors etc.—are also haunted by the perceived power of terrorists, subversives, guerrillas, or criminals (Aretxaga 2000a, Siegel 1998, Taussig 1986). This mirroring paranoid dynamic often takes the form of powerful identifications and obsessive fascination as when the state engages in terrorist or criminal practices in order to appropriate the power it attributes to its enemies, criminals, subversives, or terrorists (Taylor 1997). These are not just moments of repression against enemies that are already there; they are fields in which the state and its enemies are created and recreated as powerful fictional realities (Siegel 1998) through what Derrida has called “a phantomatic mode of production” (1994, p. 97), a structure and *modus operandi* that produces both the state and its threatening Other as fetishes of each other, constructing reality as an endless play of mirror images. It is in the act of killing, kidnapping, disappearances, and imprisonment that the state materializes as a powerful spectral reality, which marks the bodies and souls of those subjected to its practice. In some parts of the world, the increase in criminal “phantom states” has been associated with the development of an increasingly spectral neoliberal economy, the violence of which has called into being old specters such as witches, zombies, and ghosts (Comaroff & Comaroff 1999, 2000a).

Criminal states alert us to the fact that the power of the state is harnessed not so much from the rationality of ordering practices as from the passions of transgression, in which the line between the legal and the illegal is constantly blurred. One has to recall Bataille and Foucault and think of what this particular blurred border may mean for the exercise of state power. To go back to fantasy, a good deal of the literature on the state and violence shows the state not as the product of rational technologies of control but as the subject of excess that bypasses any rational functionality. What articulates this excess is fantasy (the fantasy of statehood, the fantasy of total control, the fantasy of appropriation of the other, the fantasy of heterosexual domesticity. . .), which appears as a major component of political life and a key factor structuring power relations. Fantasy here is not meant as a purely illusory construction but as a form of reality in its own right, a scene whose structure traverses the boundary between the conscious and the unconscious (Laplanche & Pontalis 1989). Fantasy in this sense belongs

to the “objectively subjective” (Zizek 1997). It is not opposed to social reality but constitutes its “psychic glue.” The state can be considered then as “a privileged setting for the staging of political fantasy in the modern world” (Agamben 1998; Rose 1996, p. 4).

This is not to say that rational technologies of control are unimportant to the materialization of state power; it is to say that they are animated by a substrate of fantasy scenes that betray complicated kinds of intimacy, sensualities, and bodily operations. If the state is constituted as an effect of discourses and practices, this is an embodied and sensual effect. It depends on the continuous recreation of the body of national heroes (Navaro-Yashin 2002, Weiss 2002), on corpses and funerals as acts of possession and rebirth. The corpse mediates between the state and the people (Siegel 1998, Taussig 1997) in a process that seems intrinsic to the materialization of the state. In Indonesia, the emergence of a notion of criminality coincides with the suppression of the people under Suharto’s New Order. The obsession with the criminal springs from the fact that the criminal mediates a realm of death “leading towards a force the state felt it lacked and which in mastering the criminal [massacring them], it hopes to have for itself” (Siegel 1998, p. 6). Is this process not also undergirding the obsession with guerrillas, ethnic rebels, and terrorists? There is an uncanny quality to the production of the state through the production of an enemy because often the criminal or terrorist or threatening Other is a familiar face, familiar but strange, strange in its familiarity, such as neighbors. Nothing distinguishes them from the rest except the fact of their death, kidnapping, disappearance, or arrest (Balibar & Wallerstein 1991, Siegel 1998, Taussig 1997, Warren 1993).

It is impossible, with all this, to ignore the discourses and practices of sexuality involved in the production and reproduction of the state. The systematic rapes of women and men that often accompany state formation, and that reached the proportions of genocide in the case of Bosnian Muslims and in Rwanda, have been linked by some scholars to the institutions of territorial sovereignty and heterosexuality. This collective sexual-political violence “is not the cause of anything but the effect of sexual political categories—of the interimplication of heterosexuality and territorial sovereignty” (Borneman 1998, p. 284). The embodied being of what counts as the state is not a neutral body but is instead a thoroughly sexualized one, whose sexual operations are invested with political power (Aretxaga 2001b, Das 1996, Taylor 1997). There is a strange intimacy between the state and the people. The state excises from the polis those subjects and practices that question or threaten homogeneous models of territorial sovereignty and heterosexual forms of political control, which are fundamental to national narratives of harmonious domesticity. This intimacy that filters and subverts modern disciplinary practices and rational technologies of control was already noticed by Foucault in his study of modern forms of punishment:

The training of behavior by a full time-table, the acquisition of habits, the constraints of the body, imply a very special relation between the individual who

is punished and the individual who punishes him . . . .The agent of punishment must exercise total power which no third party can disturb; the individual to be corrected must be entirely enveloped in the power that is being exercised over him. Secrecy is imperative and so too is autonomy at least in relation to this technique of punishment. (Foucault 1979, p. 129)

The modern will to reform seems to have been abandoned to mere forms of confinement of those who are excluded from the social-political community. The camp as a form of exclusion and total control seems to have replaced the Foucauldian prison as a model of total control over life (Agamben 1998). Yet such total control over life and death only makes more acute the presence of terrifying forms of intimacy. In some ways, “the ‘estrarity’ of the person held in the sovereign ban is more intimate and primary than the extraneousness of the foreigner” (Agamben 1998, p. 110; Agamben 2000; Berlant 1997; Siegel 1998; Žizek 1993).

There is a relation of simultaneous attraction and repulsion that holds together this sovereign power and those reduced to bare life, life that can be killed without accountability (Agamben 1998, Hardt & Negri 2000). There is a will to legibility here as a state effect that is focused on bodies perceived as both familiar and opaque, an object of fascination and threat. The official gaze constantly scans these bodies for signs (of the criminal, the terrorist, the immigrant, the undocumented), in an attempt to render them transparent, to extricate the secret opacity of its uncanny familiarity. Practices of legibility are not detached but invested with affect. Ideologies of difference take the form of bodily diacritics that fuel the obsession to render threatening bodies and people legible. Yet these intense practices of legibility often produce more opacity, as subjects manipulate stereotypes, so that the state in its military, police, or legal embodiment may see everything and yet see nothing, as in the case noticed by Fanon (1967) of women in the Algerian anticolonial war who don the veil in order to carry arms unnoticed while the army focuses on veiled women as the object of terrorist threat (Aretxaga 1997, 2000a; Bhabha 1990; Das 2003; Fanon 1967). The terrifying force of the management of bodies and people that characterizes the modern state, coupled with the intimacies that invest it, is not unrelated to the power of the law as it has come to represent the sovereign power of the state. The intense affect of this power, its “obscene enjoyment” (Žizek 1993), ingeniously portrayed by Kafka in his famous novel *The Trial*, has a hold not only on one’s life but also on one’s soul. It has the capacity to drive people mad, madness that comes from being “oversaturated with law” (Berlant 1991), with the force of law without signification (Aretxaga 2000a, Santner 1996).

## THE STATE OF EXCEPTION

On the one hand, for some scholars it is precisely when we set aside the problem of sovereignty that the state comes into view as a complex problem of power, an ensemble of techniques and tactics of domination that Foucault defines as more

crucial than the state for those interested in power (Foucault 1979, 1991). Yet for others, the continuous desire for political sovereignty in the form of statehood makes unavoidable the question of what sovereignty means in the age of Empire (Hardt & Negri 2000). On the other hand, sovereignty takes the form of homogeneous territorial sovereignty justifying all sorts of violence against those defined as outsiders (Borneman 1998). Yet the claim to sovereignty from states and those aspiring to statehood entails a larger problematic of how power is articulated and imagined today in a global world where democracy has become the form and discourse of political legitimation. It entails also a reflection of the mystifying force of the law (Derrida 1991). What defines sovereignty for some scholars is the power to call a state of exception, a social-political space of force ruled by a law beyond the law, where the distinction between fact and law has become blurred (Agamben 1998, Hardt & Negri 2000, Schmitt 1985 [1922]). The state of exception is not decided by a situation of conflict or chaos, although this is often its discourse of legitimation; rather it is decided to affirm a juridical order in which lawfulness, right, is suspended in the name of law.

In this particular order, lawfulness and unlawfulness, execution and transgression of the law become indistinguishable “such that what violates a rule and what conforms to it coincide” (Agamben 1998, p. 57). Sovereignty then presents itself as the law, which stands outside the law. In this sense, to claim state sovereignty is to embody a juridical order that cannot be held accountable. The state in this sense is and is not the law. The lack of distinction between transgression and execution of the law that characterizes the state of exception, within which anything can happen, leaves the law as a terrifying force devoid of meaning from which one cannot escape. There is no position of exteriority to the power of a law that shows itself as arbitrary, ruthless, and invested with excitement (Zizek 1997), as Kafka so masterfully illustrated. And “what after all is a state that survives history, a state sovereignty that maintains itself beyond the accomplishments of its telos, is it not a law that is in force without signifying?” (Agamben 1998, p. 60). The question is “What is the place of this law that is beyond the law?” (Foucault 1982, p. 198).

In his “Theses on the Philosophy of History,” Walter Benjamin noted that “the state of emergency in which we live is not the exception but the rule” (Benjamin 1968, p. 257). What the state of exception brings to the fore is the spectral domain of the law in the form of military and police violence, which takes, in the state of exception, an autonomy that was previously hidden. In this sense “the exception gives rise to a form of right which is really a right of the police” (Hardt & Negri 2000, p. 17). Yet the spectral domain of the law as the form of the state not only pertains to situations of military alert but also is the rule in the life of democratic states. Such spectrality comes from the violence of pure performativity in which the law simply affirms itself in a tautological form: “the law’s interest in a monopoly of violence is not explained by the intention to preserve legal ends but, rather, by that of preserving the law itself; that violence when not in the hands of the law, threatens it not by the ends that it may pursue but by its mere existence outside the law” (Benjamin 1978, p. 281). More than in any other act, law (as

the state) reaffirms itself in the exercise of power over life and death (Agamben 1998; Benjamin 1978; Hardt & Negri 2000; Siegel 1998; Taussig 1992, 1997). This lack of ultimate legitimation of law reveals something disturbing: “[A]t its foundation the rule of law is sustained . . . by the force/violence of a tautological enunciation—‘the law is the law’” (Santner 1996, p. 10). Emptied of content, the violence of law, as sovereign power, becomes ghostly and persecutory, giving rise to forms of paranoiac acting from the state as much as from the subjects who encounter it. The ghostly, persecutory power of law is incarnated in the police, a haunting figure invested with formless power (Benjamin 1978), whose effects are seen as disappearances, corpses, arrests, and internments but whose identity remains mysterious, as objects of constant speculation, rumor, and fear. “The police becomes hallucinatory and spectral because they haunt everything; they are everywhere, even there where they are not, in their *Fort Dasein* to which we can always appeal. Their presence is not present, but the presence of its spectral double knows no boundaries” (Derrida 1991, p. 1011). Like in the king’s two bodies, Kantorovitch’s famous theory of sovereignty, the spectral double of the police acts like the permanent body of the state, a presence interiorized as the law, at once fearful and paternalistic, familiar and strange, uncanny, a presence that one cannot shake out of oneself. Is this not what is at stake in Althusser’s famous example of interpellation, when a hail by the police “Hey you” compels one to turn around even when one knows one has done nothing wrong (Althusser 1971)? It is not the particular policeman as much as the spectral double, the state’s other body wrenched with sovereign power, which, as a haunting law, makes one turn around when being hailed by the police. For Althusser this hailing is not about meaning or significance but about performative force. What transpires in this performance of the spectrality of the state is an imaginary and violent relation with the state but also a paternalistic one.

This confluence of annihilating violence and paternalistic intimacy present in the regulations of the law/state is precisely what produces an uncanny feeling in relation to the police (Brown 1995; Freud 1958 [1919], 1967; Gerth & Mills 1946). It is what can drive people mad as it did German Judge Daniel Paul Schreber, Freud’s famous case of paranoid schizophrenia (Santner 1996). It is not only the coupling of rationality and violence as Weber suggested (Gerth & Mills 1946, Taussig 1992) that defines the state, for what is at stake in modern forms of sovereignty is not merely the management of bodies and populations, the power over life, but the intensification of bodies and intimacies that result from those technologies of management. What Schreber’s diary of his illness illustrates is what happens “when law becomes entangled in the management of life,” a state of affairs that for Foucault characterized modern forms of sovereignty: “a sustained traumatization induced by exposure to, as it were, fathers who knew too much about living human beings” (Santner 1996). Schreber’s father was obsessed with disciplining the body through a variety of modern regimes and disciplines. But the question one can extract through his case is that one could easily replace *fathers who knew too much* with *states who knew too much* about the bodies and lives of people. The confluence

of violence and paternalism, of force and intimacy, sustains the state as an object of ambivalence, an object of resentment for abandoning its subjects to their own fate and one desired as a subject that can provide for its citizens (Brown 1995, Ramirez 2001). The state is split into good and bad state, triggering an imaginary of the state in which desire and fear are entangled in a relation of misrecognition from which one cannot be extricated. Such inextricability from the state as law rests on an imaginary relationship with the state, which presupposes a passionate attachment to the law (Butler 1997). The hold of the law, the impossibility of extricating oneself from it, rests on the force of its performance which, lacking symbolic content, can create an obsessive attempt at interpretation, at translation of mere force into the language of reason. What is ultimately untranslatable about the performance of the law, the dimension of pure performativity that constitutes the law's authority, is the arbitrariness of its power to decide life and death.

The relationship to the law is one of being abandoned to the force of its own performance, of being transformed into bare life, at least for those who are excluded from its domain. This exclusion is always present as a potentiality, a *sine qua non* of the law and the state as an embodiment of its form. The state needs constant exclusions: Those who are excluded are included through their exclusion. These exclusions are always present as potentiality, a *sine qua non* of the law and the state as embodiments of its form, best seen in the camp as the emerging *nomos* of the political and as the space where the state of exception coincides with life, in which anything can happen (Agamben 1998).

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## CONTENTS

---

Frontispiece— <i>Ward H. Goodenough</i>	xiv
<b>OVERVIEW</b>	
In Pursuit of Culture, <i>Ward H. Goodenough</i>	1
<b>ARCHAEOLOGY</b>	
Mississippian Chiefdoms: How Complex?, <i>Charles R. Cobb</i>	63
It's a Material World: History, Artifacts, and Anthropology, <i>Elizabeth M. Brumfiel</i>	205
Hunter-Gatherer Archaeology in South America, <i>Vivian Scheinsohn</i>	339
<b>BIOLOGICAL ANTHROPOLOGY</b>	
Developmental Biology and Human Evolution, <i>C. Owen Lovejoy,</i> <i>Melanie A. McCollum, Philip L. Reno, and Burt A. Rosenman</i>	85
Environmental Pollution in Urban Environments and Human Biology, <i>Lawrence M. Schell and Melinda Denham</i>	111
The Neolithic Invasion of Europe, <i>Martin Richards</i>	135
The Social Brain: Mind, Language, and Society in Evolutionary Perspective, <i>R.I.M. Dunbar</i>	163
Intergroup Relations in Chimpanzees, <i>Michael L. Wilson and</i> <i>Richard W. Wrangham</i>	363
<b>LINGUISTICS AND COMMUNICATIVE PRACTICES</b>	
Context, Culture, and Structuration in the Languages of Australia, <i>Nicholas Evans</i>	13
<b>SOCIOCULTURAL ANTHROPOLOGY</b>	
Gender and Inequality in the Global Labor Force, <i>Mary Beth Mills</i>	41
Complex Adaptive Systems, <i>J. Stephen Lansing</i>	183
Urban Violence and Street Gangs, <i>James Diego Vigil</i>	225
Sustainable Governance of Common-Pool Resources: Context, Methods, and Politics, <i>Arun Agrawal</i>	243
Urbanization and the Global Perspective, <i>Alan Smart and Josephine Smart</i>	263

Resource Wars: The Anthropology of Mining, <i>Chris Ballard and Glenn Banks</i>	287
The Anthropology of Welfare “Reform”: New Perspectives on U.S. Urban Poverty in the Post-Welfare Era, <i>Sandra Morgen and Jeff Maskovsky</i>	315
Maddening States, <i>Begoña Aretxaga</i>	393
Highlights and Overview of the History of Educational Ethnography, <i>Daniel A. Yon</i>	411
Children, Childhoods, and Violence, <i>Jill E. Korbin</i>	431
Anthropology, Inequality, and Disease: A Review, <i>Vinh-Kim Nguyen and Karine Peschard</i>	447
<b>THEME I: URBAN WORLDS</b>	
Environmental Pollution in Urban Environments and Human Biology, <i>Lawrence M. Schell and Melinda Denham</i>	111
Urban Violence and Street Gangs, <i>James Diego Vigil</i>	225
Urbanization and the Global Perspective, <i>Alan Smart and Josephine Smart</i>	263
The Anthropology of Welfare “Reform”: New Perspectives on U.S. Urban Poverty in the Post-Welfare Era, <i>Sandra Morgen and Jeff Maskovsky</i>	315
<b>THEME II: INEQUALITY</b>	
Gender and Inequality in the Global Labor Force, <i>Mary Beth Mills</i>	41
Anthropology, Inequality, and Disease: A Review, <i>Vinh-Kim Nguyen and Karine Peschard</i>	447
<b>INDEXES</b>	
Subject Index	475
Cumulative Index of Contributing Authors, Volumes 24–32	485
Cumulative Index of Chapter Titles, Volume 24–32	488
<b>ERRATA</b>	
An online log of corrections to <i>Annual Review of Anthropology</i> chapters (if any, 1997 to the present) may be found at <a href="http://anthro.annualreviews.org/errata.shtml">http://anthro.annualreviews.org/errata.shtml</a>	