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The Principle of Distinction as Visuality

Targeting in Counterinsurgency

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The Principle of Distinction as Visuality; Targeting in Counterinsurgency

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The Principle of Distinction as Visuality; Targeting in counterinsurgency

Scholarly engagements with the contemporary form of armed conflict – counterinsurgency (COIN) – speak of a dramatic change in what once was referred to as battlefield and subsequently of decreasing relevance of the laws that limited the violence practiced in it. Since the practices generally associated with armed conflict – such as kill and capture operations – are routinely occur in an spread-out terrain, the battlefield, as a limited space confining armed conflict, its violence, as well as designating the reach of its applicable laws, is either vanished (Frédéric Mégret, 2011) or have extended to include the whole world (Derek Gregory, 2011). Consequently in the battlefield of 'global counterinsurgency' (David Kilcullen, 2004), enemy targets are present in no particular confined terrain or are to be found everywhere.

Insurgents, compensating for their asymmetrically weaker position, wear no military uniform or distinctive insignia, carry arms discreetly, use methods that need no or little physical presence – such as planting Improvised Explosive Devices (IEDs), launch their attacks from within the civilian population and simply use the civilian aesthetics and space as their camouflage. As COIN guru, David Kilcullen (2010) puts, the impossible for the counter-insurgents is to know (find) the insurgents otherwise killing them, is easy.

In response to the tactical 'invisibility' of the insurgents, world's most active counter-insurgent force, US army, insists on use and development of new technologies of surveillance and visualization for its wartime targeting purposes. For one, drones – the tireless omnipresent all encompassing deadly eyes – has attracted much justifiable attention recently. Only in 2009 US drones recorded equivalent of twenty-four years worth of video streams (Defense Industry Daily). Yet this incomprehensible visualization of counterinsurgency's environment of operation is only a small part of the US visual ambitions. More outlandish is the US Department of Defense Advanced Research Projects Agency's (DARPA) 'Transparent Earth' project, which aims to visualize the underground to the depth of five kilometers (Wired, Katie Drummond, 2010). Such radical expansion or obliteration of the spatial order of armed conflict, resulted from hyper-visualization of the battlefield, goes hand in hand with blurring of the category of legitimate target.

Yet in this paper I want to argue that Law of Armed Conflict has always had indeterminate and imaginary confines, particularly when it comes to distinguishing the legitimate human targets from the protected civilians. The expansion of sites and sights of target-ability from a limited battlefield to everywhere and nowhere, more than being a result of spectacular technologies of visualization, is channeled from within the visual orders by which the principle of distinction operates, in the first

place. In other words instead of looking at (how) what is made accessible for violent attack through visualizations of drone, this paper aims to discuss technologies of visibility as they make violence accessible, in the first place and within the assumed confines of law of armed conflict.

In making its argument this paper reconstructs the legal notion of legitimate human target – the combatant – as what that emerges at the intersection of opposing militarized political willpower and forms of visibility produced by material interventions of the principle of distinction. The obligation of combatants to 'self-visualize' (Jean-Marie Henckaerts and Louis Doswald-Beck, 2005) by way of wearing insignia and military uniform is central to this argument. I take military uniform not as a work suite, but law of armed conflict's technology of visualization. As a disciplinary instrument that entangles its wearer in material and bodily regulations which in turn "shapes the physique and the bearing of an individual, transforms individual strength into collective power" (Daniel Roche 1996, Jennifer Craik 2003 and Jane Tynan 2013) and most importantly regulates use of lethal violence by creating visible distinction between target-able bodies and protected ones.

Therefore the constellation of norms in law of armed conflict forming the principle of distinction; namely the categories of civilian and combatant, protection of 'hors de combat', white flag of truce, prohibition of perfidy, wear of adversary's uniform, human shielding, abuse of protected emblem and insignia, or permitted forms of invisibility such as use of camouflage or other ruses of war, are all reintroduced as part of an 'order of visibility' derived from and dependent on the visual functions of the military uniform. For that target-ability is a condition of an individual as (s)he relates to forms of wartime (in) visibility made by different technologies of visualization. The dependency of categories of the principle of distinction upon visual acts of the military uniform is to an extent that mere wearing of an outfit resembling a military uniform in colors or patterns can result in de facto loss of one's protected status, says the commentary to the first additional protocol to the Geneva Conventions (Jean de Preux, et al. 1987)

Principle of distinction in this reading then becomes a modality of visibility, a particular configuration of material or immaterial visibilities, working to lend authority and legitimacy to power whilst facilitating use of violence (Nicholas Mirzoeff, 2011).

Technologies of visualization, be it military uniform or else, are part of the function of the principle of distinction which divides the environment of operation into distinctively visible spaces of permitted violence.

In the end the contemporary practices of targeting can be seen as implosion of the legitimization function of the principle of distinction and its visual logic to the point of reducing target-ability to merely a question of visibility.

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