

A Minor Jurisprudence of Spectacular War: Law As Eye in the Sky

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1. Questioning Law

Gavin Hood's 2016 film, *Eye in the Sky* (*Eye*), opens on a scene of familial warmth and domestic togetherness. Words on the bottom left corner of the screen inform us that the place is Kenya, and the time is 7 am. We are introduced to a little girl, Alia, in the outdoor space of her family's very simple home; a home that appears to have been built out of scavenged and somewhat makeshift materials. The space is adjacent to an outdoor oven. Alia's mother sets bread into this oven with a baking peel. The parents have calm loving demeanours and use endearments when speaking to the child. Alia stands next to her father who is putting the finishing touches to a hoop that Alia receives with excitement. 'Go play', her father instructs her. Alia spins and twirls inside the hoop with an entrancing, lyrical grace. Then the camera moves up and away to show us a jarring contrast: on the other side of the cinder block wall separating the family's compound from the street, men in camouflage uniforms stand in a jeep with a machine gun set on a tripod,¹ patrolling the neighbourhood.

Mirroring the act of surveillance but discarding its brute militarism, and surpassing the limits of the human eye, the camera moves further up to show us an eye in the sky – a drone. Crosshairs, which 'endow the spectatorial eye with the symbolic function of a weapon' (Stam 1992:

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104), appear on the screen. As viewers, we understand this aiming, framing visual device as a signifier of the drone's seeing: precise, calibrating, *factual* because mechanical. The film's opening lays the ground for the viewing appeal of a very contemporary technofetishism² alongside Alia's archetypal innocence. This opening presages the film's compelling narrative tension: Alia is likely to be 'collateral damage'³ if a missile is launched at a room occupied by terrorists loading two suicide vests with explosives. But if Alia is not risked (sacrificed?) and the terrorists subjected to a targeted killing, a minimum of 80 civilian deaths is the probable result.

With lives at stake, we watch elite, mid- and low-ranking American and British state actors – military personnel, cabinet ministers, the British Attorney General, the Senior Legal Advisor to the U.S. National Security Council – as the decision is made to conduct the targeted killing. In the process, against the urgency of a ticking bomb scenario,⁴ these various lawyers, politicians, and military personnel express competing values and understandings of law and reality.

If jurisprudence is philosophy of law, and 'the philosophical questions which are asked about legal systems' (Davies 2002: 2), then the contestation around law and values animating *Eye* might be seen as an expression of jurisprudence. When informed by a postmodernist suspicion of grand narratives and entrenched categories, jurisprudence involves 'critique of established, conventional, and naturalised patterns of thought' (Davies 2002: 255). Minor jurisprudence, the concept and provocation that our essays collectively engage, is especially suspicious of 'the complacency and status or establishment of law' (Goodrich 1996: vii). By problematizing disciplinary distinctions, canon, and 'interpretive naïveté' (Minkinnen 1994: 357, 358), and by dwelling on 'the sites of [law's] passage or contact with an 'outside' world' (Goodrich 1996: vii), minor jurisprudence participates in critique's larger project: '[a]chieving lasting conceptual change, and therefore a change in how the world is constructed materially' (Davies 2002: 255).

As jurisprudence, *Eye* represents contemporary drone warfare as a highly regulated legal system structured around an ethical valuing

of civilian life. *Eye*'s jurisprudential texture has led one reviewer to characterise the film as 'interlac[ing] a thriller with a courtroom drama'.⁵ In featuring law alongside the enticements of 'cool weaponry', and 'the glamorization of gadgetry' (Stahl 2010: 66, 68), does *Eye* represent a minor jurisprudence of spectacular war? As Roger Stahl explains, with spectacular war, rather than a political, social, and media environment that 'work[s] through appeals, explanations, and justifications to a citizen acknowledged to be in a decision-making position', a discourse is produced 'that dazzles the citizen subject into a submissive, politically disconnected, complacent, and deactivated audience member' (Stahl 2010: 20). Given that drone warfare is unseen,⁶ yet known and secret (Masco 2014: 134),⁷ by rendering drone warfare vivid and visible, what legal system does *Eye* construct? And in framing and asking a particular set of philosophical questions of law, what does *Eye* exclude and occlude?

The concept of minor jurisprudence lends itself to delving into these questions because minor jurisprudence is attuned to 'concealment and erasure, the means of their effectuation, and attempts not simply to criticize but to depart from them' (Tomlins 2015: 251). Drawing on minor jurisprudence, my essay asks, what does *Eye* conceal and erase? How does the highly sensory and affective⁸ platform of a fictional film become the vehicle for the political disengagements of spectacular war? Briefly, my essay argues that this critically acclaimed film, featuring a gripping plot, a nuanced script, and stellar performances, dazzles us with first, technology, and second, an acute questioning of law and legal systems, to distract us from two troubling corollaries of drone warfare. These corollaries are, first, de-democratizing and dehumanizing concealments and erasures that accompany drone warfare; and second, a re-making of lawful authority, and of nation-state sovereignty, through a dramatization of the (highly contested) international law principle, responsibility to protect. In the process, by rendering visible a particular set of actors, narratives, and questions, while concealing and erasing others, *Eye* legitimises drone warfare and valorises its actors, institutions, practices, and technologies. If the gap between legality and legitimacy is one that plagues modern law (e.g., Fitzpatrick 2001),

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particularly in the context of anti-democratic politics (e.g., Kirchheimer 1932, 1933; Fraenkel 1941; Diab 2015), then *Eye* is a jurisprudential text that illuminates popular culture's role in scripting and securing legitimacy for new forms of legality.

2. Law As Spectacle

The assessment of *Eye* as part courtroom drama⁹ is both unsurprising and ironic. If the analytic category 'spectacle' is understood as 'a still prevalent mode of mediated politics that invites the citizen into a position of voyeuristic complacency' (Stahl 2010: 16), then the spectacle of something very like a courtroom drama is indeed generated in that *Eye* features lawyers;¹⁰ hierarchies of authority;¹¹ rules of procedure;¹² and dynamics of adversarial argument in which precedent,¹³ rights¹⁴, and law are invoked. This performance of rational legal authority's familiar features suggests perhaps that 'the rightness of the political order' (Schuerman 1996: 6, drawing on Weber 1922) is intact.

However, *Eye* departs from the standard courtroom drama¹⁵ in two important ways. First the role of 'witness' is (primarily) scripted for machines. With our weaponised spectatorial eye (Stam 1992: 104) framed by a range of differently marked crosshairs, we see what the various drones show us. Indeed, the film's plot and pace is quickened when the tiny, discreet (and therefore fascinating) beetle-shaped drone reveals two suicide vests being loaded with explosives. In *Eye*, what the drones show us operates like the incontrovertible facticity of proof in a courtroom drama; a facticity of seeing that distracts us from the questions that are, in Nasser Hussain's words, eclipsed.

[T]he accuracy of the drone's eye structures more than vision; it shapes how we think about, talk about, and evaluate a bombing. We focus in on the target, the moment of impact. We dispute how contained or collateral the damage was, how many civilians died alongside the chosen target. These questions begin to eclipse all other questions about the global military apparatus that makes the strike possible or about civilian injury that goes beyond body counts (Hussain 2013).

The global military apparatus that makes the strike possible relates to the second key departure from the genre of courtroom drama: events do not unfold in a single courtroom, nor is the contestation enacted primarily between legal professionals. Instead, the ‘courtroom’ is a technologically networked space across many sites, and military personnel are principal advocates. Two sites for this networked courtroom are in England. Colonel Powell runs the operation from Basement Three of the Permanent Joint Head Quarters in Northwood. The room has no windows but a large wall of screens, and a team of her military subordinates operating computers and electronic devices too complicated for us to understand. On the wall of screens however, we see what they see on their various screens, as well as images relayed from other sites around the world. Everyone in this room wears an army uniform.

The second English ‘courtroom’, mimicking perhaps a superior court, is the beautifully appointed Cabinet Offices Briefing Room A. This venue has the slightly sinister acronym COBRA. Sunlight streams through large windows perpendicular to a wall equipped with a screen. Only one person in this room wears a uniform: Colonel Powell’s superior, Lieutenant General Benson. Benson sits at the head of a conference table along with the Attorney General, the Minister of State for Foreign and Commonwealth Affairs, and Angela Northman,¹⁶ the Parliamentary Under-Secretary of State Responsible for Africa; the one woman¹⁷ in the room. On their wall of screens, these elite actors see the same images on the wall of screens in Colonel Powell’s Basement Three room; images which include those relayed from drones managed by the U.S. pilots sitting in the industrial-looking metal box in Nevada that is their ground control station. When the Senior Legal Advisor on the U.S. National Security Council calls in from the White House, we see her on these walls of screens. When the British Foreign Secretary calls in from Singapore to ask, ‘Gentlemen, what action is being *legally* recommended?’ we see him on these walls of screens too.

In spilling beyond the container of a courtroom, *Eye* dramatizes planetary jurisdiction; representing perhaps the 9/11 Commission

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Report's assertion, 'the American homeland is the planet' (2004: 362).¹⁸ In connecting events and people across four continents – Africa, Europe, North America, and Asia – *Eye* shows us something of what this means. As a corollary of planetary jurisdiction, just as the military officers, politicians, and lawyers in the film invest trust in images on screens relayed from multiple places, our (spectator-consumer) sense of the total picture comes from watching. The single screen that we watch repeatedly multiplies into the film's many screens. *Eye* is a film that mirrors our act of watching such that the familiar tropes of liberal legality become entwined with spectatorship and virtualisation. With *Eye*, images, 'the equivalent of an ammunition supply' in industrialised war (Virilio 1989: 1), eclipse key issues (Hussain 2013) even as they shape our understanding of law, and law's questions.

If spectacular war 'dazzles the citizen subject into a submissive ... deactivated audience member' (Stahl 2010: 20), then the spectatorship and virtualisation¹⁹ of watching *Eye* is like looking into a befuddling set of many reflecting mirrors: we engage in spectatorship and virtualisation; the film shows us others engaging in spectatorship and virtualisation; and the film convinces us that a transnational technological network of spectatorship and virtualisation is central to the functioning of a secretive form of warfare imperative to our safety. Part of what dazzles us into submissive acceptance is the message that the technological apparatus and nation-state alliances of drone warfare and the 'war on terror' is all too complex for any single, civilian, non-expert individual to comprehend. In its geographic scope alone, the film convinces us of a spatial and technological complexity beyond our grasp. In short, technology's capacity to almost-instantaneously span space and time, alongside the dynamics of spectatorship and virtualisation, become part of the enmeshments of technofetishism, law, and spectacular war inherent to *Eye*.

3. Responsibility to Protect

Despite its apparent delivery of courtroom drama, *Eye* replicates the post-9/11 environment by discarding legal and judicial processes and

institutions tied to liberal democracies (e.g., Diab 2015; Rajah 2014; Rajah 2016). Instead, an alternative legal system is represented. This legal system is populated by social actors relevant to a militarized civil sphere (Lutz 2009) and the counterterror state (Masco 2014), and unfolds in sites other than courtrooms. Coherent with this alternative legal system, regulatory force lies with kill lists, rules of engagement, and collateral damage estimates. In this alternative legal system, it is military and counterterrorism personnel (not lawyers, and certainly not politicians!) who can be trusted to be protective of innocence, and ethical in their decision making. In short, *Eye* convinces us that the experts able to meet the demands of planetary jurisdiction are military, technological, and counter-terrorism experts operating beyond the sphere of nation-state sovereignty.

In dramatizing a form of international administration ‘premised upon the separation of title to and control over territory in the decolonised world’ (Orford 2011: 199), and in its depiction of the spaces, technologies, and expertise of contemporary global security, does *Eye* narrate and legitimise the controversial international law concept, responsibility to protect?²⁰

Conceptually, the responsibility to protect asserts that the lawfulness of authority – both local and international – flows from the factual capacity and willingness to guarantee protection to the inhabitants of a territory. This argument for the lawfulness of authority does not prioritize self-determination, popular sovereignty, or other romantic or nationalist bases for determining who should have the power to govern in a particular territory. Rather, it asserts that authority, to be recognized and respected, must be effective in guaranteeing protection (Orford 2012: 29).

In its depiction of an urgent desire to protect Alia while also protecting the probable 80 civilian victims of a double suicide bombing, *Eye* tells the story of a decolonised nation-state with the factual incapacity to guarantee protection to its inhabitants. In *Eye*, the territory in which the targeted killing will take place is, technically, Kenya. But the film vividly portrays a failure of Kenyan territorial

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sovereignty: Alia's family lives in a neighbourhood controlled by al-Shabaab extremists in which all the inhabitants we see appear to be Somali refugees and al-Shabaab militants. Presumably, all who occupy the space are biologically, visibly, and culturally marked as somehow belonging such that outsiders are, by their very appearance, immediately identifiable as trespassers.

So stark is the territorial exclusion that the Kenyan army commander liaising with Colonel Powell instructs a Kenyan intelligence operative not to endanger himself by entering that space. At a point of entry as concrete as any walled and barbed-wired national border, the Kenyan intelligence agent who has followed suspects from the airport, to a pleasant Nairobi residential neighbourhood, turns away once those suspects enter the al-Shabaab controlled area. Once the car carrying the known al-Shabaab leaders and the newly arrived young men – one U.S. national, the other a U.K national – enters the al-Shabaab controlled area, drone surveillance reveals, as the passengers leave the car and enter the building next to Alia's home, that Susan Danford is among the passengers. Danford is the terrorist who is a British national and the prime target of Powell's initial capture mission. On spotting Danford, Colonel Powell immediately asks the Kenyan commander to find a way to 'put a man on the ground'. The man who is sent is a Somali working with Kenyan intelligence.

In keeping with the border that excludes Kenyans from this space, those in control rule in a manner that expresses a very specific relationship between territory, authority, and forms of law. Al-Shabaab's law, we are shown early in the film, takes the form of extra-legal executions: a restless Colonel Powell rises from her bed at 4:15 am to watch, in her study, a video clip of al-Shabaab shooting to death a bound intelligence operative who had been working with the Kenyan-Anglo-American alliance. Al-Shabaab's law also takes certain extremist forms repressive of women. This extremism is conveyed in an early moment in the film in which we see a bustling marketplace. As if out of nowhere, a young woman's exposed wrists (her sleeves conceal three-quarters of her arm) are hit by a disciplining stick. The man policing the space and

the woman, is simultaneously interrogating and accusing, 'Why aren't your wrists covered'? We are shown that he wears an army uniform and the woman complies with his demand that she leave the public space of the market.

Coherent with this narrative strand on the repressive policing of women, a customer seeking Alia's father's bicycle repair skills chastises Alia's father when she, a child intent on play, picks up her hoop and starts circling within it. Immediately afraid, apologizing to the customer, her father stops her. Once the man is safely beyond the wall, her father warns Alia; explaining, exclaiming, 'These people are fanatics. Never play in front of them'! One of the ways in which Alia's family is sympathetically portrayed to us (a 'Western' audience) is that Alia's parents do what they can to give Alia an education; instructing her surreptitiously in their home, hiding her books under sofa cushions when there is a risk that the books might be seen by a stranger. In this territory which is simultaneously Kenyan yet not Kenyan, as long as she is dressed in a certain way, Alia can safely be in public, as a girl and a child, to sell bread, but she cannot safely be seen to play, nor can she safely be seen to be acquiring literacy and numeracy.

Through the enforcement of certain forms of repression, and through the vigilance and violence of men – some armed and in uniform – we are shown that Kenyan territory harbours those who threaten the lives of Kenyans (the probable targets in the prospective shopping-centre suicide bombing), and those who, in different ways, threaten Alia's capacity to grow into the kind of adult who, as Nan Seuffert notes,²¹ represents the hope for a liberal, democratic future. In short, the law at work in this territory is not Kenyan. In keeping with the logics of responsibility to protect, the lawfulness of international authority over this territory flows from the factual incapacity of the Kenyan state to 'guarantee protection to the inhabitants of the territory' (Orford 2012: 29).

4. Women Who Lead; Women Who Serve

Crucially however, just as responsibility to protect is inherently neo-

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colonial in its logics, ideology, and operations (Orford 2011), Alia's vulnerability also seems in troubling continuity with colonial ideologies. Drawing on Spivak, Seuffert highlights that, as a vulnerable, brown, girl-child, Alia perpetuates the colonial justification of 'white men saving brown women from brown men' (Spivak 1988: 297). Indeed, the post-9/11 context has 're-vitalised Orientalist tropes and representations of backward, oppressed and politically immature women in need of liberation and rescue through imperialist interventions' (Zine 2016: 21).

Alia's sacrifice (she is the single instance of 'collateral damage' that we are shown) draws attention to the roles assigned to women in this film. The operation is led by a woman, Colonel Powell, and the atypical terrorist, Susan Danford, is an English woman that Powell has pursued for six years. At one level, these roles render race irrelevant; pitting English women against each other such that the vile terrorist is a foil to the virtuous warrior. But to what extent do the roles of woman warrior and woman terrorist function to mask the patriarchal cultures and violence of two belligerent institutions: the army, and extremist terrorism? Possibly, the leadership assigned to women works in *Eye* by 'fram[ing] militarism to appeal to viewers historically the most resistant to the military: women' (Vavrus 2013: 92).

The casting of women as leaders takes on a second troubling dimension: in different ways, both Powell and Danford play a part in killing a girl child.²² Symbolically, does *Eye* suggest that women who lead are rendered somehow murderous? Both Powell and Danford are depicted as directing their activities to taking life. There is a troubling misogyny at work in the way Powell and Danford mirror each other as threats to Alia. Augmenting the tainting of women as leaders in *Eye* is the fact that Angela Northman, the Parliamentary Under-Secretary of State Responsible for Africa, the only woman present in COBRA, is the person who speaks the single most cynical and power-serving sentiment uttered in this film. Bearing in mind that this is a film replete with self-serving utterances (primarily from politicians and lawyers), it is this one woman in COBRA who suggests that perhaps they, (the

decision-makers) should do nothing to prevent the suicide bombing, saying, 'Politically, I'd rather point to al-Shabaab as murders of 80 people shopping than have to defend a drone attack by *our* forces that killed an innocent child'. Her savvy assessment of what the Attorney General characterizes as 'the propaganda war' leaves the room shocked and silent for a few moments.

In contrast to the women who lead, in *Eye*, the women who serve (for example, Carrie Gershon, the sensor operator who works alongside Steve Watts in the Nevada Ground Control Station, Lucy Galvez, the woman who conducts the image analysis from Pearl Harbor, Hawaii, Alia's mother, the women who buy bread from Alia in the market) do not endanger life. Misogyny in *Eye* takes on a sinister but subtextual form; fronting women in power as emblems of a desirable gender equality even as it suggests that power de-humanizes women.

In summary, by establishing the failure of the Kenyan state to protect first, its own population from suicide bombings, and second, girls and women from the misogyny of al-Shabaab, the stage is set for the (Western, imperial) rescuing mission of responsibility to protect. Responsibility to protect legitimises international executive rule when 'the lawfulness of authority – both local and international – flows from the factual capacity and willingness to guarantee protection to the inhabitants of a territory' (Orford 2012: 29). Accordingly, under the terms of responsibility to protect's moral internationalism (Orford 2013), a British-led military and intelligence operation, in collaboration with the US and Kenya, is a lawful expression of authority. In the fabric of minor jurisprudence woven by *Eye*, responsibility to protect becomes a convincing, compelling feature of the alternative legal system central to our contemporary perpetual war.

5. Spectacular Concealing

Given the potency of spectacular war and technofetishism in *Eye*, it is ironic that much of the critical acclaim for the film centres on its representation of deliberation.²³ This acclaim fails to notice that should these debates occur off screen, between lawyers, politicians, and the

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military, we, as publics, would not be aware of them because the legal system of the counterterror state features secrecy as ‘a core tool’ and ‘an ever-expanding practice’ (Masco 2014: 128). With *Eye*, the explicitly jurisprudential script almost acts like a decoy. The characters’ shared abhorrence for taking an innocent life, and the consequent contestation around law, liability, and responsibility, distracts us from a larger discourse of concealing that the film participates in.

This concealing is easy to miss for two reasons. First, the authenticating affect of ‘fact’ threads through *Eye* in a range of ways: the actors playing Alia and her parents are actual Somali refugees;²⁴ Susan Danford’s character is probably based on British national, Samantha Lewthwaite, characterised by the British tabloid press as ‘terror fugitive’ and believed to be behind certain terrorist attacks in Kenya;²⁵ director Gavin Hood’s and writer Guy Hibbert’s numerous interviews with military officials inform the script;²⁶ the script draws on British procedure for drone strikes on its citizens detailed by *The Economist*,²⁷ and on leaked U.S. secret documents published on the website ‘The Intercept’.²⁸ Additionally, the Permanent Joint Headquarters in Northwood,²⁹ and Creech Air Force Base,³⁰ are actual U.K. and U.S. military facilities; and *Eye*’s depictions of drones have been assessed as realistic, with ‘a lot of cutting edge tech’.³¹ The invocations of actual military facilities, and the assessment that the cutting edge tech is realistic, suggest that like other films of ‘militainment’,³² *Eye* has been made with the cooperation of state militaries (see also Vavrus 2013).

A second reason that the dynamic of concealing is elusive in *Eye* is that, in appearing to show us what states won’t reveal, and in the dynamics of spectatorship and virtualisation, visibility stands in for transparency.³³ The distinction between visibility and transparency points to a crucial difference between the courtroom trial and *Eye*: the courtroom is, in general, a public space. The visibility of events in a courtroom expresses the principle that law must have the capacity to scrutinize power, and hold power accountable. In *Eye* however, law’s visibility is recalibrated, through secrecy, in the service of national security.

If visibility stands in for transparency in the mainstream visual culture of the ‘war on terror’ (Kennedy 2012), it is important to note that spectacles of concealing are also achieved when *Eye* shows us secrecy in terms of space, and relatedly, in terms of law’s record. With the Basement Three command centre, COBRA, Creech Air Base, and the Image Analysis Unit, we enter highly secure state spaces from which publics are excluded. When Colonel Powell briefs the Americans, she instructs them that the mission is classified top secret. When the suicide vests become visible and Alia’s proximity puts her at risk, the politicians demand assurances that secrecy will be maintained and that there is no risk of a video of the drone strike leaking and being posted on YouTube.

Joseph Masco highlights that secrecy, when acquiesced to by a public, engenders a de-democratizing ‘conspiratorial subtext to everyday life ... [with] collective assumptions about the secret state’ (Masco 2014: 128; Dean 2002). In reviewing scholarship on secrecy and contemporary U.S. imperialism, Masco writes,

Chalmers Johnson ... point[s] out that the CIA term blowback addresses not only the retaliatory consequences produced by U.S. covert actions at home and abroad but also the damaging domestic effects of secrecy. Since U.S. covert operations are by definition unknown to U.S. citizens, actions taken around the world in response to them are literally unintelligible to U.S. citizens. Secrecy works here in a doubled fashion to enable state actions that might not be supported if they were subjected to public debate while at the same time denying citizens a means of understanding the long-term political effects of U.S. global activities. In a counterterror state, blowback has several additional perverse effects: since U.S. citizens have no insight into U.S. covert actions around the world, retaliatory acts appear to the American public as without context and thus irrational. And given that the premise of the War on Terror is that a ‘terrorist’ is an irrational and inherently violent being who is dedicated to destroying the United States, blowback empowers yet another level of American misrecognition and fantasy: namely, that the United States is only a global military actor when provoked by irrationally violent attacks. (Masco 2014: 133-134.)

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In keeping with the American misrecognitions and fantasies engendered by secrecy, *Eye* reproduces dominant U.S. discourse on terrorism in two important ways. First, the terrorist violence in *Eye* is presented as without cause or context, and, second, with one exception, the terrorists are cardboard figures conforming to identity stereotypes. The (very) slightly less cardboard figure is the gender and racially a-typical terrorist, Susan Danford. When briefing the American members of the team, Colonel Powell explains Danford as someone who had 'a troubled childhood', converted to Islam at 15, and met the man she married, a British national of Somali descent, in a West London mosque. Danford's story is sketched out in this very skeletal way. Apart from a brief moment of explanation for the terrorist violence offered early in the film when, along with Powell, we watch the video news clip on al-Shabaab's summary execution of the intelligence agent,³⁴ there is no effort to explain or contextualise al-Shabaab, the British Somali who is married to Danford, or the readiness to don suicide vests of the two very young men (so young as to be on the cusp of childhood); one who grew up in the U.S., the other who grew up in the U.K.

In decontextualizing contemporary terrorists and terrorism, *Eye* also perpetuates the 'war on terror' trope that terrorists are 'evil, barbaric, and inhuman while America and its coalition partners are ... heroic, decent, and peaceful – the defenders of freedom' (Jackson 2005: 59).³⁵ In *Eye*, none of the state actors is portrayed as fuelled by racism, righteous nationalist rage, or in the way of the Iraq War, by a heavy metal soundtrack (Pieslak 2009). Instead, with self-serving politicians, and responsibility-avoiding lawyers as foils, the film portrays military and counterterrorism personnel as the most ethical, selfless, and heroic among the dramatis personae. Dismantling the notion that drone warfare engages a distancing, de-humanising optic, the two young U.S. air force officers in their Nevada ground station are shown to be intimately invested in protecting and saving Alia. Colonel Powell, and her superior, General Benson, make the decision to conduct the strike, despite the risk to Alia, because of the greater number of innocent lives at stake should they not pre-empt the suicide bombings. We are shown that making these decisions, and operating

the technologies that surveil and kill, thoughtful, likeable individuals are burdened and distressed. By the end of the film, the mission is accomplished, but there is no celebration.

When it comes to concealing, given that the dominant discourse on drone warfare is already one-sided and myopic (Hussain 2013), it becomes important to ask, what experiential dimensions of drone strikes does *Eye* represent? A brief consideration of the soundscape of the film offers a troubling detail.

In his influential essay, *A Phenomenology of Drone Strikes* (2013), Nasser Hussain draws attention to ‘the chronic and intense harm continuous strikes wage on communities’. Consistent with the troubling silences and erasures that mark debates in the US on drone warfare (Hussain 2013; Masco 2014), the soundscape of *Eye* does *not* include the ‘terrifying buzz of a distant propeller’ those on the ground hear when drones are visible (Rohde 2012). Instead, *Eye* portrays the surveilling, bomb-bearing drone as unobtrusively silent, while the smaller drones we see whirr and click so subtly as to be unnoticed by those who are being recorded and relayed. However, *Eye*’s soundscape *does* feature a powerful moment of silence. Mirroring perhaps the fact that ‘[d]rones fire missiles that travel faster than the speed of sound [such that a] drone’s victim never hears the missile that kills him’ (Rohde 2012), when a missile strikes the room with the suicide bombers and their al-Shabaab handlers, we *see* Alia falling to the ground, her parents rushing to look for her, embodying fear and grief. We see, in this striking silence, devastated bodies and buildings. For an intense few seconds, the film’s sound is, eloquently, the sound of silence. In this silence we witness Alia’s parents’ despair, and experience our own wordless distress at the slaying of innocence.

The distress of the young US drone pilots, and the concern of the UK elites to avoid the problem of killing Alia while also managing the imminent suicide bombings, is entirely humanised by the film’s images, narrative, and soundscape. What *Eye* conceals is the role of silence in facilitating an ‘aura of detachment ... [that] eases the ability to kill’ (Hussain 2013) inherent to the drone’s technology of sight without sound,

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‘In the case of drone strike footage, the lack of synchronic sound renders it a ghostly world in which the figures seem unalive, even before they are killed. The gaze hovers above in silence. The detachment that critics of drone operations worry about comes partially from the silence of the footage (Hussain 2013).

The soundscape’s deceptive slippages discount the terror experienced by communities subject to drones. When this sonic deception is deployed alongside the authenticating affect of fact, *Eye* augments the distortions marking U.S. dominated perceptions of the full effects of drones.

To summarise, in *Eye*’s minor jurisprudence of spectacular war, the responsibility to protect is taken seriously by an international administration populated by those who care. They care both for the vulnerable child Alia, but also for us: the spectator-subject. As audiences, we stand in for innocent, ignorant publics who might step into shopping centres in the course of a mundane weekend; vulnerable in our routines to death by terrorist attack. In the affective terrain of *Eye*, the secrecy and disproportionate power of that international counterterror administration seems legitimate and desirable; thus strengthening the fabric of a minor jurisprudence of spectacular war.

6. Conclusion: A Minor Jurisprudence of Spectacular War

In the penultimate moments of *Eye*, we join the film’s state actors in witnessing two forms of killing: targeted assassination and collateral damage. Liam Kennedy argues that the execution of violent state power ‘enacted as shock and awe, as high technological interventions in foreign terrains, with the use of drones’ works in tandem with collateral damage (2012: 265). He writes,

[T]hese forms of violence are linked in the visual culture of perpetual war: in different yet closely related ways they signify the naturalization of preemptive violence as the right and might of the state. They also assert the powerful sovereignty of the state, for such violence creates its own interpretive conditions and so suspends the ethical and legal conventions of response to its enactments’ (2012: 265).

As audiences – mediated spectator-subjects – in a culture of spectacular war, what understanding of state sovereignty do we receive; what interpretive conditions are created; and what ethical and legal conventions are suspended by the violence we witness? In the course of this essay, I have argued that the arc of *Eye's* narrative legitimates an expansive, secretive transnational state power exercised through drone warfare. Drone warfare is an especially de-democratizing technology of war (Gusterson 2014: 203), while the responsibility to protect renews and re-vitalises neo-colonial operations and ideologies of international executive rule (Orford 2011). Within the dazzling expanse of planetary jurisdiction, spectacular technology becomes justifiable, if not *necessary*, in an archetypal battle between good and evil. Liberal legality is undone alongside liberal democracy and nation-state sovereignty when the film valorises military and counterterrorism sites and personnel as responsible protectors of vulnerable transnational populations. In *Eye*, contemporary war's apparently borderless operations demarcate a form of planetary jurisdiction in which targeted killings and collateral damage must necessarily, justifiably, occur in distant places, upon distant, uncounted, bodies.

As an apparently non-state text engaging the complications of affect, portraying Alia and her family as very real, very likeable people, *Eye* appears to attend to margins and the marginal; a marker of minor jurisprudence (Goodrich 1996). Through the mimicking of courtroom drama, *Eye* appears to undo political polemics and interpretive naiveté; to illuminate that which has been concealed and erased – further markers of minor jurisprudence (Minkinnen 1994; Tomlins 2015). If however, we reject visibility as a species of transparency, and disentangle ourselves from the enticements of technofetishism, it becomes possible to look beneath and beyond *Eye's* spectacle to perceive its spectacular concealing: this film shows us highly undemocratic, unaccountable, and imperial forms of sovereign power. In *Eye*, law, rules, and procedure become masks for a recalibrated legal system in which fundamentally philosophical questions about drone warfare, the 'war on terror', and the nature of citizenship remain unasked. Sovereignty's tentacles appropriate marginality, affect, and a non-sovereign text to reproduce, in insidious and troubling ways, a jurisprudence of majority.

Endnotes

* Research Professor, American Bar Foundation, Chicago. Warm thanks are due, in particular to: Chris Tomlins for the exciting 'Law As' project and the wonderful 2016 Berkeley conference; Nan Seuffert for her generous and thoughtful engagement with a preliminary version of this essay; Shaun McVeigh for many insightful points; and two anonymous reviewers who provided many concrete suggestions for improvement. Warm thanks also to the following friends and colleagues who have kindly read versions of this essay and whose comments inform this text: Rick Abel; Olivia Barr; Sandra Brunnegger; James Gathii; Charles Merritt; Genevieve Painter; and Davis Schneiderman.

1. The tripod – a piece of equipment common to photography and to war – visually invokes (at least) two associations: first, Susan Sontag's well known assessment that '[e]ver since cameras were invented in 1839, photography has kept company with death' (2003: 24); and second, the history of film in which '[t]he precursor to the Lumieres' moving picture camera was Etienne-Jules Mary's chronophotographic rifle, which both resembled and was inspired by a machine gun' (Stahl 2010: 8; Virilio 1989: 15). The weapon on a tripod in these opening moments is visually echoed when, later in the film, a camera is set on a tripod so that the young men recruited to be al-Shabaab suicide bombers can record suicide videos.
2. Technofetishism is 'the worship of high-end weaponry ... ascribing weapons an inherent virtue or beauty [and] positioning military hardware at the center of the television war drama' (Stahl 2010: 28). Technofetishism is a key attribute of spectacular war, discussed below.
3. In delving into the dehumanizing, 'actuarial' (2012: 273) logics of the language of 'collateral damage', Liam Kennedy argues that collateral damage is 'a form of violence that is supplementary and incidental to the sensational violence of shock and awe', and that '[a]cross US mainstream visual culture, shock and awe and collateral damage are dominant frames in visualizations of the war on terror. They ideologically parse death and suffering by delineating those who count as fully human and those who do not' (2012: 265).
4. The ticking bomb scenario has been characterized as 'one of the most vexing issues of the torture debate'; a scenario that has been deployed to justify torture, and the discarding of legal safeguards for suspects and

detainees 'when the public is in danger' (Lokaneeta 2011, 61). With *Eye*, there is a deft transplantation of the ticking bomb scenario from the torture debate to the uncertainties surrounding the limits on, and scrutiny of, state power in drone warfare. This transplantation is troubling for the way it deploys fear and posits a state omniscience relating to the future. The arc of *Eye's* narrative legitimates an expansive, secretive, state power in drone warfare through the compelling need to protect innocent publics by preventing the unfolding suicide bombings.

5. <https://ww2.kqed.org/arts/2016/03/18/a-war-seen-in-unnerving-close-up-from-eye-in-the-sky/>
6. Unseen, that is, by those of us in the global North. Drone warfare has been used principally in Yemen, Afghanistan, Iraq, Pakistan and Somalia (Gunneflo 2016: 177). Artist Mahwish Chishty paints drones both as seeing – with stylized eyes decorating the drone as object – and as their shape appears to those on the ground: mahwishchishty.com
7. Officially, within the U.S., drone warfare occupies the paradoxical space of known but secret in its details. Jane Mayer (2009) draws attention to the distinction between the publicly acknowledged military's drone program and the covert CIA-run program 'aimed at terror suspects around the world' in which 'the intelligence agency declines to provide any information to the public about where it operates, how it selects targets, who is in charge, or how many people have been killed'. The use (or non-use) of drones is a 'classified fact' permitting the CIA to deflect Freedom of Information Act requests (Masco 2014: 134).
8. Affect, once understood as broadly equivalent to 'emotion', has come, in contemporary scholarship, to be understood as 'the name we give to those forces – visceral forces beneath, alongside, or generally *other than* conscious knowing, vital forces insisting beyond emotion' (Seigworth and Gregg 2010: 1). The affect of a fictional film like *Eye* includes narrative, image, sound, suspense, celebrity culture and technofetishism.
9. <https://ww2.kqed.org/arts/2016/03/18/a-war-seen-in-unnerving-close-up-from-eye-in-the-sky/>
10. The lawyers in the film are British Attorney General, the Senior Legal Advisor to the U.S. National Security Council, and a British army lawyer with the rank of Captain. The contestation between these various state-

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affiliated lawyers distracts us from the absence of the voice of a non-state lawyer in the role of defence counsel.

11. Hierarchy is of course an entrenched feature of the common law. Hierarchies of authority are explicit with the film's military personnel but it is also striking that, in an ironic mirroring of the military chain of command, the lawyers and the politicians keep 'referring up' in an effort to deflect responsibility and make others responsible for a difficult decision.
12. These rules are dramatized as a core feature of military and counter-terrorism operations. It is the sight of the suicide vests that precipitates the urgent debates around law because the mission's authority was for a capture rather than a targeted killing. Towards the film's end, we are reminded of law as bureaucracy and record keeping when Colonel Powell instructs her targeteer, 'You will file your report as a 45% CDE, understood Sant'? And when the U.S. drone pilot refuses to fire the weapon unless the collateral damage estimate is revised, his astonished superior asks (rhetorically!) what he is thinking by 'throwing the rule book at a Colonel'. The many constraining rules and procedures depict military violence as restrained and law-full.
13. In the Cabinet Offices Briefing Room, the Parliamentary Under-Secretary of State Responsible for Africa asks, 'Has there ever been a British-led drone attach on a city in a friendly country that is not at war? If not, how can we sanction it'?
14. Lieutenant Watts, the U.S. airforce drone pilot in the Nevada container, relies on the language of rights in an effort not to risk Alia's life, saying, 'Colonel Powell, ma'am, I am the pilot in command. I have the right to ask for the CDE [Collateral Damage Estimate] to be run again. I will not release my weapon until that happens'.
15. For a useful analysis of courtroom dramas as genre, see Silbey 2001.
16. <http://www.bleeckerstreetmedia.com/editorial/eyeintheky-chain-of-command>
17. Aspects of the roles played by women in *Eye* are discussed below.
18. Although the language of 'planetary jurisdiction' is specific to the 9/11 Commission Report, a US foreign policy twinned to global militarization and technologies of representation dates from (at least) the Cold War (e.g., Virilio 1989 17; Masco 2014).

19. Spectatorship and virtualisation, Liam Kennedy (2012) highlights, are core to visual culture in our time of perpetual war.
20. I am grateful to Shaun McVeigh for this point.
21. Nan Seuffert's written comments are on file with me.
22. I am grateful to Shaun McVeigh for this point.
23. See for example, https://www.nytimes.com/2016/03/13/movies/helen-mirren-eye-in-the-sky-and-national-bird-train-sights-on-warfare-by-remote-control.html?_r=0 and <https://www.kqed.org/arts/2016/03/18/a-war-seen-in-unnerving-close-up-from-eye-in-the-sky/>
24. <http://undertheradar.military.com/2016/04/eye-in-the-sky-director-gavin-hood-talks-drone-warfare/>; and
25. <http://www.dailymail.co.uk/news/article-3791189/British-white-widow-terror-fugitive-Samantha-Lewthwaite-mentored-female-team-jihadists-attacked-Kenyan-police-station.html>. I am grateful to Nan Seuffert for drawing this connection to my attention.
26. <https://thinkprogress.org/eye-in-the-sky-an-ambivalent-thrilling-movie-about-drones-that-america-needs-to-talk-about-26456a17cae4#.3rwkh3ivp> ;and https://www.nytimes.com/2016/03/13/movies/helen-mirren-eye-in-the-sky-and-national-bird-train-sights-on-warfare-by-remote-control.html?_r=0
27. <http://www.bleeckerstreetmedia.com/editorial/eyeinthesky-chain-of-command>
28. <http://www.bleeckerstreetmedia.com/editorial/eyeinthesky-chain-of-command>
29. <https://www.gov.uk/government/groups/the-permanent-joint-headquarters>
30. <http://www.creech.af.mil/>
31. <https://www.wired.com/2016/04/eye-in-the-sky-modern-war-film/>. In 2009, Jane Mayer reported that the United States government was planning 'to commission hundreds more [drones], including new generations of tiny "nano" drones, which can fly after their prey like a killer bee through an open window' (Mayer 2009: 5). The implication of Mayer's report was that General Atomics Aeronautical Systems, a private company that manufactures the best known drones, the Predator and the Reaper, would also be manufacturing the tiny nano drone. With the release of *Eye* in

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- 2016, the probable actual existence and deployments of the tiny drone augments the technofetishism so central to the film.
32. Roger Stahl defines militainment as ‘state violence translated into an object of pleasurable consumption ... this state violence is not of the distant or historical variety but rather an impending or current use of force, one directly relevant to the citizen’s political life’ (2010: 6).
 33. In his analysis of the Situation Room photography, Liam Kennedy makes the point that visibility is treated as a species of transparency even as an image illustrates an undemocratic and non-transparent exercise of state power (2012).
 34. In a sound bite, the reporter explains that al-Shabaad is fighting for a particular version of ‘Islamic’ rule in the horn of Africa and ‘bitterly resents the role of Kenya and Britain in propping up the Somali government’.
 35. *Eye* features in musician and artist David Byrne’s installation on implicit bias. In National Public Radio’s report on Byrne’s installation, the role of race, religion, and dress in assumptions about terrorism are brought to the fore: <http://www.npr.org/programs/morning-edition/>.

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