

Gabriel Quigley

University of Toronto

Laying Bare: Agamben, Chandler, and The Responsibility to Protect

This paper demonstrates the hidden similarities between Raymond Chandler's prototypical noir *The Big Sleep*, and the United Nations *Responsibility to Protect* (R2P) document. By taking up the work of philosopher Giorgio Agamben, this paper shows that the bare life produces the form of protection embodied by Philip Marlowe in Chandler's novel and by the United Nations Security Council in R2P. Agamben's theorizing of the extra-legal status of the sovereign pertains to both texts, in which the protector exists outside of the law. Philip Marlowe, tasked with preventing the distribution of pornographic images, commits breaking-and-entering, withholding evidence, and murder. Analogously, R2P advocates for the Security Council's ability to trespass laws that safeguard national sovereignty in order to prevent "bare" atrocities against human life. As Agamben demonstrates, the extra-legal position of the protector is made possible by "stripping bare" human life. This paper also gestures towards limitations of Agamben's thought by indicating, through a comparison of these two texts, that bare life produces states of exception as the object of protection rather than punishment.

key words: The Big Sleep; R2P; Agamben; Bare Life; States of Exception

As two texts whose primary concern is the suspension of law, Raymond Chandler's novel *The Big Sleep* can be thought alongside the United Nations *The Responsibility to Protect* document (R2P). This paper demonstrates that the prioritization of protection over legal representation in both of these texts emerges from the production of bareness. In *The Big Sleep*, Philip Marlowe is hired as an extra-legal investigator tasked with preventing the distribution of pornographic images. Similarly, the R2P document argues for the ability to suspend state sovereignty in order to protect human life that has been stripped of national character. In order to explain the hidden similarity between these two texts, this paper takes up the philosopher Giorgio Agamben's argument that the production of bare life facilitates the creation of states of exception in which sovereign violence can exceed legal limitations. By drawing on the logic of exception that underlies the strategies of protection that are represented in each document, this paper also points out possible reworkings of Agamben's thesis.

Agamben argues that states of exception can occur through the production of bare life by the sovereign, which enables sovereign violence to be deployed without juridical limitations. Agamben explains that a state of exception is when the law is temporarily suspended by the state due to emergency circumstances. Citing 9/11 as a state of exception in his book *Homo Sacer*, Agamben points out that "President Bush's decision to refer to himself constantly as the 'Commander in Chief of the Army' after September 11, 2001 . . . entails a direct reference to the state of exception . . . in which the emergency becomes the rule, and the very distinction between peace and war (and between foreign and civil war) becomes impossible" (22). Agamben explains that the "emergency" of 9/11 permitted the US government to perform increasingly invasive and unconstitutional practices of protection, such as "the USA Patriot Act issued by the U.S. Senate

on October 26, 2001, [that] allowed the attorney general to ‘take into custody’ any alien suspected of activities that endangered ‘the national security of the United States’” (Agamben *State of Exception* 3). Bare life enables this seemingly occasional state to become the rule, for the state of exception to become the norm.

Hannah Arendt describes bare life as occurring “when a person becomes a human being in general – without a profession, without citizenship, without an opinion, without a deed by which to identify and specify himself” (182). Agamben departs from Arendt’s formulation of power by showing that “the production of bare life is the originary activity of sovereignty” (*Homo Sacer* 83). Bare life is not a product of power, as Arendt argues in *The Origins of Totalitarianism*, instead it constitutes the very foundation of sovereignty. Bare life is a mode of being that permits the sovereign to enact violence without constitutional restraint, “sovereign violence is in truth founded not on a pact but on the exclusive inclusion of bare life in the state” (*Homo Sacer* 106). Bare life lacks political representation, yet it is subject to political forces – it is an inclusive exclusion of *oikos* in the workings of the *polis*, of the unpolitical being in the administration of power. The expression that Agamben uses for naming this formulation of bare life is *homo sacer*, they who can be killed without being murdered. During a state of exception, such as the one that Agamben links to the Patriot Acts, specific members of society become reduced to *homo sacer* when they are stripped of legal representation, left defenceless, utterly vulnerable to the state. States of exception thereby form a necessary component of sovereignty. It is during a state of exception that the necessary *inclusive exclusion* is produced, the scapegoat that is within the city but is not protected by its laws. This paper demonstrates that *The Big Sleep* as well as the R2P document expose the ways that bare life permits increasingly invasive and illegal forms of sovereign power, but through reversing Agamben’s logic, whereby bare life becomes that which must be protected instead of expelled.

In Raymond Chandler’s prototypical noir, Philip Marlowe is hired by General Sternwood to “handle” the extortion efforts being made by Arthur Gwynn Geiger, who has been blackmailing General Sternwood with gambling debts accrued by his daughter. Marlowe proves to be the ideal man for this assignment because of his ability to ensure privacy and to work outside the law. Through several acts of trespassing and deceit, Marlowe eventually uncovers Geiger’s pornography studio: “Miss Carmen Sternwood was sitting in a fringed orange shawl...it had a profile like an eagle and its wide round eye was a camera lens. The lens was aimed at the naked girl in the chair” (Chandler 36). Marlowe eventually tracks down the photographs to Joe Brody and retrieves them by blackmailing Joe into releasing them, stating “You knew *she* was there, because you had your girl friend threaten Mrs. Regan with a police rap. The only ways you could know enough to do that would be by seeing what happened or by holding the photo and knowing where and when it was taken. Cough up and be sensible.” (83) Marlowe’s shady approach, his playing loose with the law, is what makes him the ideal protector. In a conversation with Carmen’s sister Vivian, Marlowe reminds her how valuable he is, not simply because of his confidentiality: “‘How about telling the police?’ ‘It’s a good idea. But you won’t do it.’ ‘Won’t I?’ ‘No. You have to protect your father and your sister. You don’t know what the police might turn up. It might be something they couldn’t sit on’” (59). The appropriateness of Marlowe’s methods is rationalized by what he has been hired to protect: photographs of Carmen’s bare, entirely uncovered body.

The United Nations document, *The Responsibility to Protect* (R2P) argues that the sovereignty of individual nations can be suspended in order to prevent “bare” atrocities against humanity. This marks a significant shift in international relations, since it prioritizes the protection of human beings regardless of nationality, race, or religion – in other words, human

beings that have been stripped of any qualities. This is supported by the document's rhetoric of "bareness." For example, article 1.5 argues that disagreements between state leaders over the permissibility of intervention have "laid bare basic divisions within the international community," and concludes by stating, "in the interest of all those victims who suffer and die when leadership and institutions fail, it is crucial that these divisions be resolved" (2). In describing past atrocities, R2P emphasizes how situations like "Rwanda in 1994 laid bare the full horror of inaction" (1). What is "stripped away" by these events is their national specificity, since "in the aftermath, many African peoples concluded that, for all the rhetoric about the universality of human rights, some human lives end up mattering a great deal less to the international community than others" (R2P 1). The "bareness" of these atrocities is what makes them "conscience-shocking situation[s] crying out for action" (R2P 55). This paper makes two claims: that the R2P document produces "bare life" by reversing Agamben's formulation, and that the R2P document argues for a strategy of protection that exploits bare life in order to violate individual state sovereignty.

By placing Marlowe alongside the R2P document, a correlation emerges which shows that the R2P document operates according to a logic that can only be called pornographic. By "laying bare" our responsibilities, the R2P document argues that atrocities such as genocide have made the issue of preventing these crises the obligation of the international community. Since the prevention of these atrocities is no longer solely the concern for the nation in which it occurs, this responsibility justifies the violation of laws that protect state sovereignty. When the R2P document states "the [Security] Council is already prepared to authorize coercive deployments in cases where the crisis in question is, for all practical purposes, confined within the borders of a particular state" (34), this authorization depends on the degree to which the crisis is an obligation to the international community. In other words, this depends on how "bare" the crisis is – how much it lacks national specificity, to what degree it is a concern about "human life" regardless of what national, cultural, or religious qualities it may possess. Similarly, Marlowe's protection of Carmen's nudity involves having to work outside of legal limitations. His methods include blackmail, breaking and entering, withholding evidence, and murder. During a conversation with the District Attorney, Marlowe states, "my client is entitled to that protection, short of anything but a Grand Jury. I have a license to operate as a private detective. I suppose that word 'private' has some meaning" (Chandler 111-12). For Marlowe, a "private" investigator is one who is not beholden to the public, with all of its rules and regulations. The way that R2P advocates for the protection of human life, and Marlowe protects Carmen's nude photos, corresponds with Agamben's formulation of sovereign power as that which operates outside of juridical limitations. In both cases, this is enacted by the production of bare life, but in a reversal of Agamben's logic, since bare life becomes that which is protected rather than expelled.

In his article, "'You're a Watcher, Lad': Detective Fiction, Pornography, and Ellroy's L.A. Quartet," Jim Mancall argues that pornography is frequently found in detective fiction because crime and pornography both need to be restrained. He states that "crime can never be completely eradicated, but it can be carefully controlled and confined" (3). Likewise, "containment is a fixture in debates about the regulation of pornography" (3), which makes "pornography . . . a signifier for the detective story itself" (12). This can be seen in *The Big Sleep* by considering how Carmen's pornography exceeds confinement. Marlowe discovers that pornography is being distributed through secret deposits on the street, "I watched him out of sight and went up the central walk of the La Baba and parted the branches of the third cypress. I drew out a wrapped book and put it under my arm and went away from there" (Chandler 27), "a racket like that, out in the open on the boulevard, seemed to mean a lot of protection" (30).

The conspicuousness of the pornography ring, contrasted with the images of Carmen that are taken in a “wide room, the whole width of the house . . . there were four cushions, bits of odd silk tossed around, as if whoever lived there had to have a piece he could reach and thumb” (34-35) emphasizes how pornography disrupts confinement. Marlowe is specially equipped to protect an object like pornography because he is also capable of breaking spatial limits. In the chapter “The Synoptic Chandler” from *Shades of Noir*, Fredric Jameson states that the various “offices” in Chandler’s novels “are able in a satisfactory and satisfying manner to span the breadth of the social system from wealth to poverty and (in the area of crime and vice) from public to private” (44-45). He goes on to argue that the structure of *The Big Sleep* “organizes people and their dwellings into a cognitive map of Los Angeles that Marlowe can be seen to canvass, pushing the doorbells of so many social types, from the great mansions to the junk-filled rooms on Bunker Hill or West 54th Place” (53). Marlowe’s Los Angeles is an area without limits, and his ability to trespass borders is appropriate for securing an object like pornography that also resists containment.

Various passages in the R2P document state that violations against human life constitute a threat that supersedes national borders, “the Commission believes that they will strictly limit the use of coercive military force for human protection purposes . . . in those exceptional circumstances when violence within a state menaces all peoples” (35). “Human protection” is an international, rather than domestic, responsibility. R2P thereby advocates a method of protection that is capable of trespassing national limits, even arguing that it is the obligation of the international community to intervene during “a breakdown or abdication of a state’s own capacity and authority in discharging its ‘responsibility to protect’” (39). Not only are all nations responsible for protecting human life, but all nations are obliged to intervene when human life is threatened. R2P does not simply argue for the permissibility of violations of sovereignty, it advocates a radically deterritorialized model of international relations.

The objects of protection in both of these texts challenge territorial separations: the nude photographs of Carmen are private images made public, and in R2P, human life belongs to the citizens of a specific country but are also of international concern. The insistent assurance that “when the call goes out to the community of states for action, that call will be answered . . . there must be no more Rwandas” (R2P 70) continues to draw attention to the pornographic aspect of these crises within the framework of protection advocated by R2P, as private affairs that are made public. Because the responsibility to protect human life is both domestic and international, R2P argues that the means for protecting it should likewise cross over these territorial distinctions. These means are reflected by the topographical subversion of sovereignty that Agamben discusses in *Homo Sacer*. Agamben describes the sovereign as existing both within and outside the juridical order, “the sovereign, having the legal power to suspend the validity of the law, legally places himself outside the law” (*Homo Sacer* 15). This inclusive exclusionary status is made permissible by the production of bare life, which is the included exclusion to the city. Agamben states that “in the city, the banishment of sacred life is more internal than every interiority and more external than every extraneousness” (*Homo Sacer* 111). It comes from without, but it is within, thus granting the sovereign the ability to punish *homo sacer* without respecting the rules of the city. Bare life also collapses the separation of private and public spheres because of its necessarily biopolitical aspect. Biopolitical life is produced when the traditional distinctions of *bios* and *zoē*, or of political life and private life, have been joined,

together with the process by which exception everywhere becomes the rule, the realm of bare life – which is originally situated at the margins of the political order – gradually begins to

coincide with the political realm, and exclusion and inclusion, outside and inside, *bios* and *zoē*, right and fact, enter into a zone of irreducible indistinction. (*Homo Sacer* 9)

If we consider how Agamben's argument may be reversed, then the protection (rather than the punishment) of bare life as a category that subverts topographical separation explains the extensions of sovereignty occurring in *The Big Sleep* and R2P. Just as the protection of Carmen's nudity requires somebody who is capable of trespassing, so does R2P advocate for a method of protection that rejects national borders. The dissolution of territorial demarcation in *The Big Sleep* and R2P can be explained by considering how the object of protection works against these limitations in virtue of its bareness.

Marlowe protects Carmen's body in several respects. To begin with, his destruction of the pornographic photographs is an act that protects the use of her body against her consent. Elaine Scarry discusses the relationship between consent and the body in her book *Thermonuclear Monarchy*, wherein she states, "what we call a 'constitutional principle of authorization' embedded in a legal document, and 'social contract' when embedded in a philosophic document, we call 'consent' when embodied in a living human being" (263). By referring to the influence of medical discourse on John Locke and John Stuart Mill, Scarry argues that "the body is inseparable from the deep structure of consent" (275), forming "the lever across which sovereignty is gained, authorization achieved" (276). The relationship between the body and consent is key for understanding the kind of violation that is produced by Carmen's pornographic photographs. By working to prevent the nonconsensual distribution of her pornographic images, Marlowe's first assignment is the protection of her body. Throughout this investigation, Marlowe also protects Carmen from physical harm: "Agnes turned the gun away from me and swung it at Carmen. I shot my hand out and closed my fingers down hard over her hand and jammed my thumb on the safety catch" (Chandler 86). Yet despite the fact that Carmen's body is an object that requires protection, it is revealed by the end of the novel that Carmen is the true threat. Marlowe explains how Carmen attempts to murder him for refusing to consent to her sexual advances, "she was in my bed – naked. I threw her out on her ear. I guess maybe Regan did the same thing to her sometime. But you can't do that to Carmen" (227). As for Rusty Regan, "she turned the gun and shot him, just the way she tried to shoot me today, and for the same reason" (226). Referring to Scarry's statements on consent, Carmen's behaviour represents a fundamental violation of bodily respect. Despite the fact that Marlowe is hired to protect Carmen, Marlowe has to protect himself from Carmen. Carmen is paradoxically both vulnerable and dangerous, and although Marlowe is employed to protect her body, she herself constitutes a threat of bodily harm and violation.

The UN Security Council can be thought through a similar paradox: of representing a body that must be protected while also being capable of violating sovereignty. Judith Butler argues in *Precarious Life* that "the body implies mortality, vulnerability, agency: the skin and the flesh expose us to the gaze of others, but also to touch, and to violence, and bodies put us at risk of becoming the agency and instrument of all these as well" (26). Considering the ways in which R2P responds to the vulnerability of human life, the use of bodily rhetoric demonstrates how the representation of human life by "international or regional bodies" (R2P 31) and "non-governmental bodies" (R2P 42) suggests that these organizations are vulnerable in a specific, corporeal way. This is evidenced by the defensive rhetoric that is employed in R2P for protecting the legitimacy of these bodies, reflecting the concern "that intervention for human protection purposes, including military intervention in extreme cases, is supportable" (R2P 16). R2P explicitly calls on the need to defend the Security Council from any objections, stating that "there

is no better or more appropriate body than the United Nations Security Council to authorize military intervention for human protection purposes” (XII). For these reasons, organizations such as the UN Security Council are appropriately called “bodies” because they represent vulnerable bare life and are themselves vulnerable. In her dissertation “The Body of International Relations,” Lauren B. Wilcox builds on Butler’s analysis of the body’s vulnerability by showing that the R2P approach towards security regards “the body of security [as] an exogenous, natural body that is free to go about its business in the absence of violence. By reproducing the sovereign state, R2P reproduces this ‘natural’ body” (247). Wilcox’s argument points out how the rhetoric of R2P emphasizes the vulnerability of international security itself. Yet despite the vulnerability of R2P and its associated international bodies, they are also capable of violence. This is evidenced in Section 4 of R2P, “The Responsibility to React,” which emphasizes the capability of the United Nations for launching aggressive action. Not only does this section convey the UN’s military capability, it also draws attention to the UN’s ability to transgress rules of sovereignty. The international “bodies” that protect bare life while nevertheless demanding to be protected, are paradoxically also the agents capable of violating international contracts of state independence. Considering the connection that Scarry outlines between bodies and consent, these organizations function like bodies that demand for their consent to be protected while also violating the consent of others.

Carmen and the UN Security Council are bodies that paradoxically require protection while acting as aggressive agents. Carmen’s body is an object of protection, but Carmen also violates bodily rights of consent. The international bodies specified in R2P are objects of protection that are also responsible for protecting, while within the R2P document they nevertheless represent a force that can violate rules of state sovereignty. This paradox can be understood by considering the dual ways in which bodies are “stripped.” On the one hand, a body can be thought in terms of a bare life that lacks representation (political “clothing”), while on the other hand a body is one without insignia, without a uniform, and without the obligations that come with this apparel. Agamben describes both of these situations of bareness as *homo sacer* and the sovereign respectively. Both of these paradigms for power exist outside of a juridical order of representation, which permits the sovereign the ability to exercise greater control over *homo sacer*. According to Agamben, sovereign power arises from the inclusion of a pre-representational and pre-contractual State of War within a State of Society,

it is important to note that in Hobbes the state of nature survives in the person of the sovereign . . . sovereignty thus presents itself as an incorporation of the state of nature in society, or, if one prefers, as a state of indistinction between nature and culture, between violence and law, and this very indistinction constitutes specifically sovereign violence. (*Homo Sacer* 34)

This included exception is exhibited in the production of states of exception and bare life, which facilitate the suspension of contractual protection that comprises a State of Society. Because of this inclusion, Agamben describes the sovereign as appearing like a wolf-man, “when Hobbes founds sovereignty by means of a reference to the state in which ‘man is a wolf to men,’ . . . at issue is not simply *feria bestia* and natural life but rather a zone of indistinction between the human and animal, a werewolf” (*Homo Sacer* 106). Marlowe even remarks that Carmen appears like a dog as she is rolling on the floor, “Carmen was crawling on her hands and knees, still hissing . . . ‘Get up, angel. You look like a Pekinese,’” (Chandler 87) adding to the irony that Carmen is in fact a murderer. Likewise, the fact that “there is no better or more appropriate body than the United Nations Security Council to authorize military intervention,” a “body” that consists of “unrepresentative membership . . . and its inherent double standards with the

Permanent Five veto power” (*R2P* 49), brings to mind Agamben’s formulation of the sovereign as an included exception to representation that administers the law without being beholden to it. The bareness of Carmen’s body makes her vulnerable, but also excepts her from having to respect rules of consent, while the international bodies of R2P require protection from its critics even as the document advocates for their ability to violate state sovereignty.

Marlowe is the permanently clothed figure who refuses to be reduced to bare life. The protection of Carmen’s body permits exceptions to the law, the distorting of private and public spheres, and excepts Carmen herself from having to respect the bodies of others. The protection of bare life in R2P permits exceptions to laws governing state sovereignty, blurs territorial distinctions, and grants international bodies the ability to break contractual obligations. Marlowe represents the antithesis of bare life, “wearing my powder-blue suit, with dark blue shirt, tie and display handkerchief, black brogues, black wool socks, with dark blue clocks on them” (Chandler 3). Marlowe even refuses to undress at Carmen’s advances, stating instead ““Don’t make me dress you again . . . you and I have to keep on being friends, and this isn’t the way to do it. Now will you dress like a nice little girl?” (155). In the Agambenian framework of bareness as it relates to sovereignty, Marlowe is the political subject who deals exclusively with representation. Marlowe remains wholly *bios*, nothing but political being, refusing to expose his *zoē*. While this may protect Marlowe to a degree, it also takes away from his power – as he explains, “for twenty-five bucks a day . . . I risk my whole future, the hatred of the cops and of Eddie Mars and his pals, I dodge bullets and eat saps, and say thank you very much, if you have any more trouble, I hope you’ll think of me . . . and that makes me a son of a bitch” (228). If we consider Marlowe’s obsession with clothing within an Agambenian framework, we can see how Marlowe refuses to become *homo sacer* but also refuses to become the sovereign. Ironically, his clothing excludes him from occupying either of the positions of power produced by states of exception. When Marlowe enters General Sternwood’s house at the very start of the novel, he notices a stained glass window: “there was a broad stained-glass panel showing a knight in dark armor rescuing a lady who was tied to a tree and didn’t have any clothes on” (Chandler 3). Clothing is like armour because it is a protection against bareness, and Marlowe protects himself very well.

The role of Carmen’s naked body in *The Big Sleep* and the bareness of human life in *The Responsibility to Protect* both show how protection can permit the suspension of law. This paper takes up Agambenian thought in order to demonstrate the hidden similarity between these two texts as it applies to the theme of protection, while also pointing out ways that Agamben’s political theory can be rethought. Although Agamben’s theorizing of bare life focuses on its vulnerability and its subjection to power, bare life – as it is represented by Carmen Sternwood in *The Big Sleep* and human life in R2P – also enables others to become more vulnerable. Sovereign power can be extended in order to protect bare life, and “elaborate smut . . . seemed to mean a lot of protection” (Chandler 30).

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