Contents

Preface ix
Acknowledgements xiii

1. A critique of political technology 1
   1.1 Political technology, good governance and statecraft 1
   1.2 Political technology as mindset 5
   1.3 Political technology as method 7
   1.4 Political technology of the security state 25

2. Visions of political technology 30
   2.1 Hobbes and the beginning of modern political technology 30
   2.2 Construction: Images of the Leviathan 34
   2.3 Subversion: The Panopticon and the capillaries of power 38
   2.4 Deconstruction: From sovereign to democratic aesthetics 42

3. Constellations of law-rule and the state of exception 51
   3.1 From visual magic to polysemy 51
   3.2 Origins, affinities and differences 54
   3.3 The Rechtsstaat – a German ‘Sonderweg’ 61
   3.4 The constitutionalization of the Rechtsstaat and the state of emergency 71
   3.5 The post-Nazi constellation: Locke unplugged, natural law updated 78
   3.6 Reinventing the state of exception as ‘protected democracy’ 80
   3.7 The form of law-rule versus the substance of the welfare state 83
   3.8 Rechtsstaat: All form – no justice? 91
   3.9 The preventive state – a global formula 93

4. The state of exception as mindset and doctrine 97
   4.1 The ambivalence of the liberal paradigm 97
viii  

Political technology and the erosion of the rule of law

4.2 Apocalypse and the politics of fear: About Schmitt 100
4.3 From Schmitt towards Agamben: The bare state of exception 112
4.4 Search movements: The repressed state of exception 115
4.5 Flirting with the state of exception: Imagining worst-case scenarios 120
4.6 The decapitation of law-rule and Locke 136
4.7 State impotence and abuse as fixed points in the mindset of emergency technicians 139

5. Political extremism and the militancy of law-rule 147
5.1 Protest, law-rule and fear 147
5.2 Hobbes, Locke and the freedom from fear 150
5.3 Preliminary considerations on the analysis of politico-legal fears 152
5.4 The freedom from fear and rationality under law-rule 160
5.5 Manipulations of the legislative techniques of governing 166
5.6 Meta-legality and the law of fear 174
5.7 The law of fear and ‘Meta-fundamental Rights’ 179
5.8 Meta-fundamental rights, meta-legality and myth 183

6. Normalizing the state of exception: Counter-terrorism and ‘whatever it takes’ 185
6.1 Terror as manipulative communication 185
6.2 Terrorism and the ‘new security architecture’ 187
6.3 The ‘normalization’ of the state of emergency 189
6.4 The logic of militant law 192
6.5 The asymmetry between freedom and security 195
6.6 Militant law as special police law 198
6.7 ‘Enemy criminal law’ and other phenomena of militant law 207
6.8 Some effects of combat law and security mentality 216

7. Normalizing torture as a technique of governing: What ‘the exigencies of war’ demand? 221
7.1 The domestication of a taboo 221
7.2 A ‘return’ to the ‘Middle Ages’? 226
7.3 The new paradigm? 230
7.4 Practical consequences of ‘rescue torture’ 238
7.5 The polysemy of torture and its abuses 245

Bibliography 252
Index 295