## Offcase

### new 1nc shell

#### **aff’s use of the law is a militaristic tactic that creates legal legitimacy to propel more frequent, more deadly violent interventions that ensure infrastructural violence that maims civilians – they actively displace moral questions in favor of a pathologically detached question of legality**

* Emphasizing the distinction between legal/legitimate and illegitimate violence causes legal violence to seem more appealing

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(Thomas, *International Studies Quarterly* 46, The New Law of War: Legitimizing Hi-Tech and Infrastructural Violence)

The role of military lawyers in all this has, according to one study, “changed irrevocably” ~Keeva, 1991:59!. Although liberal theorists point to the broad normative contours that law lends to international relations, the Pentagon wields law with technical precision. During the Gulf War and the Kosovo campaign, JAGs opined on the legal status of multinational forces, the U.S. War Powers Resolution, rules of engagement and targeting, country fly-overs, maritime interceptions, treatment of prisoners, hostages and “human shields,” and methods used to gather intelligence. Long before the bombing began, lawyers had joined in the development and acquisition of weapons systems, tactical planning, and troop training. In the Gulf War, the U.S. deployed approximately 430 military lawyers, the allies far fewer, leading to some amusing but perhaps apposite observations about the legalistic culture of America ~Garratt, 1993!. Many lawyers reviewed daily Air Tasking Orders as well as land tactics. Others found themselves on the ground and at the front. According to Colonel Rup- pert, the idea was to “put the lawyer as far forward as possible” ~Myrow, 1996–97!. During the Kosovo campaign, lawyers based at the Combined Allied Operations Center in Vicenza, Italy, and at NATO headquarters in Brussels approved every single targeting decision. We do not know precisely how decisions were taken in either Iraq or Kosovo or the extent to which the lawyers reined in their masters. Some “corrections and adjustments” to the target lists were made ~Shot- well, 1993:26!, but by all accounts the lawyers—and the law—were extremely accommodating. The exigencies of war invite professional hazards as military lawyers seek to “find the law” and to determine their own responsibilities as legal counselors. A 1990 article in Military Law Review admonished judge advocates not to neglect their duty to point out breaches of the law, but not to become military ombuds- men either. The article acknowledged that the JAG faces pressure to demonstrate that he can be a “force multiplier” who can “show the tactical and political soundness of his interpretation of the law” ~Winter, 1990:8–9!. Some tension between law and necessity is inevitable, but over the past decade the focus has shifted visibly from restraining violence to legitimizing it. The Vietnam-era perception that law was a drag on operations has been replaced by a zealous “client culture” among judge advocates. Commanding officers “have come to realize that, as in the relationship of corporate counsel to CEO, the JAG’s role is not to create obstacles, but to find legal ways to achieve his client’s goals—even when those goals are to blow things up and kill people” ~Keeva, 1991:59!. Lt. Col. Tony Montgomery, the JAG who approved the bombing of the Belgrade television studios, said recently that “judges don’t lay down the law. We take guidance from our government on how much of the consequences they are willing to accept” ~The Guardian, 2001!. Military necessity is undeterred. In a permissive legal atmosphere, hi-tech states can meet their goals and remain within the letter of the law. As noted, humanitarian law is firmest in areas of marginal military utility. When opera- tional demands intrude, however, even fundamental rules begin to erode. The Defense Department’s final report to Congress on the Gulf War ~DOD, 1992! found nothing in the principle of noncombatant immunity to curb necessity. Heartened by the knowledge that civilian discrimination is “one of the least codified portions” of the law of war ~p. 611!, the authors argued that “to the degree possible and consistent with allowable risk to aircraft and aircrews,” muni- tions and delivery systems were chosen to reduce collateral damage ~p. 612!. “An attacker must exercise reasonable precautions to minimize incidental or collat- eral injury to the civilian population or damage to civilian objects, consistent with mission accomplishments and allowable risk to the attacking forces” ~p. 615!. The report notes that planners targeted “specific military objects in populated areas which the law of war permits” and acknowledges the “commingling” of civilian and military objects, yet the authors maintain that “at no time were civilian areas as such attacked” ~p. 613!. The report carefully constructed a precedent for future conflicts in which human shields might be deployed, noting “the presence of civilians will not render a target immune from attack” ~p. 615!. The report insisted ~pp. 606–607! that Protocol I as well as the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons “were not legally applicable” to the Gulf War because Iraq as well as some Coalition members had not ratified them. More to the point that law follows practice, the report claimed that certain provisions of Protocol I “are not a codification of the customary practice of nations,” and thus “ignore the realities of war” ~p. 616!. Nor can there be any doubt that a more elaborate legal regime has kept pace with evolving strategy and technology. Michael Ignatieff details in Virtual War ~2000! how targets were “developed” in 72-hour cycles that involved collecting and reviewing aerial reconnaissance, gauging military necessity, and coding antici- pated collateral damage down to the directional spray of bomb debris. A judge advocate then vetted each target in light of the Geneva Conventions and calcu- lated whether or not the overall advantage to be gained outweighed any expected civilian spillover. Ignatieff argues ~2000:198–199! that this elaborate symbiosis of law and technology has given birth to a “veritable casuistry of war.” Legal fine print, hand-in-hand with new technology, replaced deeper deliberation about the use of violence in war. The law provided “harried decision-makers with a critical guarantee of legal coverage, turning complex issues of morality into technical issues of legality.” Astonishingly fine discrimination also meant that unintentional civilian casualties were assumed to have been unintentional, not foreseen tragedies to be justified under the rule of double effect or the fog of war. The crowning irony is that NATO went to such lengths to justify its targets and limit collateral damage, even as it assured long-term civilian harm by destroying the country’s infrastructure. Perhaps the most powerful justification was provided by law itself. War is often dressed up in patriotic abstractions—Periclean oratory, jingoistic newsreels, or heroic memorials. Bellum Americanum is cloaked in the stylized language of law. The DOD report is padded with references to treaty law, some of it obscure, that was “applicable” to the Gulf War, as if a surfeit of legal citation would convince skeptics of the propriety of the war. Instances of humane restraint invariably were presented as the rule of law in action. Thus the Allies did not gas Iraqi troops, torture POWs, or commit acts of perfidy. Most striking is the use of legal language to justify the erosion of noncombatant immunity. Hewing to the legal- isms of double effect, the Allies never intentionally targeted civilians as such. As noted, by codifying double effect the law artificially bifurcates intentions. Har- vard theologian Bryan Hehir ~1996:7! marveled at the Coalition’s legalistic word- play, noting that the “briefers out of Riyadh sounded like Jesuits as they sought to defend the policy from any charge of attempting to directly attack civilians.” The Pentagon’s legal narrative is certainly detached from the carnage on the ground, but it also oversimplifies and even actively obscures the moral choices involved in aerial bombing. Lawyers and tacticians made very deliberate decisions about aircraft, flight altitudes, time of day, ordnance dropped, confidence in intelligence, and so forth. By expanding military necessity to encompass an extremely prudential reading of “force protection,” these choices were calculated to protect pilots and planes at the expense of civilians on the ground, departing from the just war tradition that combatants assume greater risks than civilians. While it is tempting to blame collateral damage on the fog of war, much of that uncertainty has been lifted by technology and precision law. Similarly, in Iraq and in Yugoslavia the focus was on “degrading” military capabilities, yet a loose view of dual use spelled the destruction of what were essentially social, economic, and political targets. Coalition and NATO officials were quick to apologize for accidental civilian casualties, but in hi-tech war most noncombatant suffering is by design. Does the law of war reduce death and destruction? International law certainly has helped to delegitimize, and in rare cases effectively criminalize, direct attacks on civilians. But in general humanitarian law has mirrored wartime practice. On the ad bellum side, the erosion of right authority and just cause has eased the path toward war. Today, foreign offices rarely even bother with formal declarations of war. Under the United Nations system it is the responsibility of the Security Council to denounce illegal war, but for a number of reasons its members have been extremely reluctant to brand states as aggressors. If the law were less accommodating, greater effort might be devoted to diplomacy and war might be averted. On the in bello side the ban on direct civilian strikes remains intact, but double effect and military demands have been contrived to justify unnecessary civilian deaths. Dual use law has been stretched to sanction new forms of violence against civilians. Though not as spectacular as the obliteration bombing to which it so often is favorably compared, infrastructural war is far deadlier than the rhetoric of a “clean and legal” conflict suggests. It is true that rough estimates of the ratio of bomb tonnage to civilian deaths in air attacks show remarkable reductions in immediate collateral damage. There were some 40.83 deaths per ton in the bombing of Guernica in 1937 and 50.33 deaths per ton in the bombing of Tokyo in 1945. In the Kosovo campaign, by contrast, there were between .077 and .084 deaths per ton. In Iraq there were a mere .034 ~Thomas, 2001:169!. According to the classical definition of collateral damage, civilian protection has improved dramatically, but if one takes into account the staggering long-term effects of the war in Iraq, for example, aerial bombing looks anything but humane. For aerial bombers themselves modern war does live up to its clean and legal image. While war and intervention have few steadfast constituents, the myth of immaculate warfare has eased fears that intervening soldiers may come to harm, which polls in the U.S., at least, rank as being of great public concern, and even greater military concern. A new survey of U.S. civilian and military attitudes found that soldiers were two to four times more casualty-averse than civilians thought they should be ~Feaver and Kohn, 2001!. By removing what is perhaps the greatest restraint on the use of force—the possibility of soldiers dying—law and technology have given rise to the novel moral hazards of a “postmodern, risk-free, painless war” ~Woollacott, 1999!. “We’ve come to expect the immacu- late,” notes Martin Cook, who teaches ethics at the U.S. Army War College in Carlisle, PA. “Precision-guided munitions make it very much easier to go to war than it ever has been historically.” Albert Pierce, director of the Center for the Study of Professional Military Ethics at the U.S. Naval Academy argues, “standoff precision weapons give you the option to lower costs and risks . . . but you might be tempted to do things that you might otherwise not do” ~Belsie, 1999!. Conclusion The utility of law to legitimize modern warfare should not be underestimated. Even in the midst of war, legal arguments retain an aura of legitimacy that is missing in “political” justifications. The aspirations of humanitarian law are sound. Rather, it is the instrumental use of law that has oiled the skids of hi-tech violence. Not only does the law defer to military necessity, even when very broadly defined, but more importantly it bestows on those same military demands all the moral and psychological trappings of legality. The result has been to legalize and thus to justify in the public mind “inhumane military methods and their consequences,” as violence against civilians is carried out “behind the protective veil of justice” ~af Jochnick and Normand, 1994a:50!. Hi-tech states can defend hugely destructive, essentially unopposed, aerial bombardment by citing the authority of seemingly secular and universal legal standards. The growing gap between hi- and low-tech means may exacerbate inequalities in moral capital as well, as the sheer barbarism of “premodern” violence committed by ethnic cleansers or atavistic warlords makes the methods employed by hi-tech warriors seem all the more clean and legal by contrast. This fusion of law and technology is likely to propel future American interventions. Despite assurances that the campaign against terrorism would differ from past conflicts, the allied air war in Afghanistan, marked by record numbers of unmanned drones and bomber flights at up to 35,000 feet, or nearly 7 miles aloft, rarely strayed from the hi-tech and legalistic script. While the attack on the World Trade Center confirmed a thousand times over the illegality and inhu- manity of terrorism, the U.S. response has raised further issues of legality and inhumanity in conventional warfare. Civilian deaths in the campaign have been substantial because “military objects” have been targeted on the basis of extremely low-confidence intelligence. In several cases targets appear to have been chosen based on misinformation and even rank rumor. A liberal reading of dual use and the authorization of bombers to strike unvetted “targets of opportunity” also increased collateral damage. Although 10,000 of the 18,000 bombs, missiles, and other ordnance used in Afghanistan were precision-guided munitions, the war resulted in roughly 1000 to 4000 direct civilian deaths, and, according to the UNHCR, produced 900,000 new refugees and displaced persons. The Pentagon has nevertheless viewed the campaign as “a more antiseptic air war even than the one waged in Kosovo” ~Dao, 2001!. General Tommy Franks, who commanded the campaign, called it “the most accurate war ever fought in this nation’s history” ~Schmitt, 2002!.9 No fundamental change is in sight. Governments continue to justify collateral damage by citing the marvels of technology and the authority of international law. One does see a widening rift between governments and independent human rights and humanitarian relief groups over the interpretation of targeting and dual-use law. But these disputes have only underscored the ambiguities of human- itarian law. As long as interventionist states dominate the way that the rules of war are crafted and construed, hopes of rescuing law from politics will be dim indeed.

#### **militarism is a fundamentally unsustainable system that is the root cause of all extinction threats and ensures mass structural violence – non-violence is the only possible response**

Kovel 2

(Joel, “The United States Military Machine”, http://www.joelkovel.org/americanmilitary.htm; Jacob)

I want to talk to you this evening about war - not the immediate threat of us war against Iraq, but about how this conflict is an instance of a larger tendency toward war-making endemic to our society. In other words, the phrase from the folksong, “I ain’t gonna study war no more,” should be rethought. I think we do have to study war. Not to make war but to understand more deeply how it is put together and about the awful choices that are now being thrust upon us. These remarks have been stimulated by recent events, which have ancient roots, but have taken on a new shape since the collapse of the Soviet Union, the rise of the second Bush administration, and the inception of the so-called “War on Terror.” The shape is that of permanent warfare- war-making that has no particular strategic goal except total us dominance over global society. Hence, a war without end and whose internal logic is to perpetuate itself. We are, in other words, well into World War III, which will go on whether or not any other state such as Iraq is involved. It is quite probable that this administration will go to war in Iraq, inasmuch as certain very powerful people crave it. But it is not necessarily the case, given the fact that the war against Iraq is such a lunatic proposal that many other people in high places are against it and too many people are marching against it. And while war against Iraq is a very serious matter that needs to be checked by massive popular resistance, equally serious are the structures now in place in the United States dictating that whether or not the war in Iraq takes place, there will be another war to replace it, and others after that, unless some very basic changes take place. America Has Become a War-Making Machine The United States has always been a bellicose and expansive country, built on violent conquest and expropriation of native peoples. Since the forming of the American republic, military interventions have occurred at the rate of about once a year. Consider the case of Nicaragua, a country utterly incapable of being any kind of a threat to its giant northern neighbor. Yet prior to the Sandinista revolution in 1979 (which was eventually crushed by us proxy forces a decade later), our country had invaded Nicaragua no fewer than 14 times in the pursuit of its imperial interests. A considerable number of contemporary states, such as Britain, South Africa, Russia, and Israel, have been formed in just such a way. But one of the special conditions of the formation of America, despite its aggressivity, was an inhibition against a military machine as such. If you remember, no less a figure than George Washington warned us against having a standing army, and indeed the great bulk of us interventions prior to World War II were done without very much in the way of fixed military institutions. However, after WWII a basic change set in. War-weary America longed for demobilization, yet after a brief beginning in this direction, the process was halted and the permanent warfare state started to take shape. In part, this was because policy planners knew quite well that massive wartime mobilization had been the one measure that finally lifted America out of the Great Depression of the 1930s. One of the lessons of that time was that propounded by the British economist John Maynard Keynes, to the effect that capitalist societies could ameliorate chronic [economic] crises by infusions of government spending. The Great War had certified this wisdom, and permanent military expenditure readily became the received wisdom. This was greatly reinforced by the drastic realignment of capitalist power as a result of the war. America was essentially the only capitalist power in 1945 that did not lay in ruins and/or have its empire shattered. The world had been realigned and the United States had assumed a global imperial role. Policy planners like George Kennan lucidly realized that this meant safeguarding extreme inequalities in wealth, which implied a permanent garrison to preserve the order of things. The notion was especially compelling given that one other state, the Soviet Union, had emerged a great power from the war and was the bellwether of those forces that sought to break down the prevailing distribution of wealth. The final foundation stone for the new military order was the emergence of frightful weapons of mass destruction, dominance over which became an essential element for world hegemony. The Iron Triangle These factors crystallized into the Cold War, the nuclear arms race, and, domestically, into those structures that gave institutional stability and permanence to the system: the military-industrial complex (mic). Previously the us had used militarism to secure economic advantage. Now, two developments greatly transformed our militarism: the exigencies of global hegemony and the fact that militarism became a direct source of economic advantage, through the triangular relations of the mic with the great armament industries comprising one leg, the military establishment another, and the state apparatus the third, profits, power, and personnel could flow through the system and from the system. Clearly, this arrangement had the potential to greatly undermine American democracy. It was a “national security state” within the state but also extended beyond it into the economy and society at large, virtually insulated from popular input, and had the power to direct events and generate threats. Another conservative war hero-become-president, Dwight Eisenhower, warned the nation in a speech in 1961 against the emerging permanent war machine, but this time, the admonitions were not heeded.\* The machine made a kind of war against the Soviet system for 35 years. Although actual guns were not fired between the two adversaries, as many as 10 million people died in its varied peripheral conflicts, from Korea to Vietnam, Angola, El Salvador, Nicaragua, and Guatemala. The Cold War divided the world into bipolar imperial camps, directed by gigantic superpowers that lived off each other’s hostility. It was a terrible war whose immense suffering took place largely outside the view of the American people, but it also brought about an uneasy kind of stability in the world order, in part through the standoff in nuclear weapons. During the Ford and Carter administrations, another great crisis seized the world capitalist economy. Having matured past the rebuilding that followed the world war, a period of stagnation set in, which still has the global economy in its grip despite episodic flashes of vigor. Predictably, a spate of militarism was central to the response. A “Second Cold War” took place under Reagan, featuring an accelerated nuclear arms race, which was deliberately waged so as to encourage Soviet countermeasures in the hope that this would cause breakdown in the much weaker, bloated, and corrupt Russian system. The plan worked splendidly: by 1989-91, the mighty Soviet empire collapsed, and the bipolar world order became unipolar, setting a stage for the current phase. The fall of the Soviet Union was widely expected to bring a ìpeace dividend.î This would have been the case according to the official us line, parroted throughout the media and academe, that our military apparatus was purely defensive (after all, we have no Department of War, only one of "Defense") and reactive to Soviet expansionism and military/nuclear threat. As this was no longer a factor, so the reasoning wentóindeed, as the us now stood bestride the world militarily as had no power since the Roman Empireóconventional logic predicted a general diminution in American militarism after 1991, with corresponding benefits to society. The last decade has at least settled this question, for the effect on us aggression, interventionism, and the militarization of society has been precisely the opposite. In other words, instead of braking, the machine accelerated. Removal of Soviet power did not diminish Americaís imperial appetite: it removed inhibitions on its internally driven expansiveness. As a result, enhanced war-making has replaced the peace dividend. The object of this machine has passed from dealing with Soviet Communism to a more complex and dispersed set of oil wars (Iraq I and now II), police actions against international miscreants (Kosovo), and now the ubiquitous War Against Terror, aimed variously at Islamic fundamentalists, Islam as a whole, or anybody irritated enough with the ruling order to take up some kind of arms against it. The comparison with the Roman Empire is here very exact. As the eminent economist and sociologist Joseph Schumpeter described Rome in 1919: “There was no corner of the known world where some interest was not alleged to be in danger or under actual attack. If the interests were not Roman, they were those of Rome’s allies. And if Rome had no allies existed, the allies would be invented. The fight was always invested with the order of legality. Rome was always being attacked by evil-minded neighbors.” The logic of constant threat meshes with that of ruthless expansion, which we see everywhere in this epoch of unipolar world dominion. Currently, the military budget of the us is 334 billion dollars. The budget for the next fiscal year is 379 billion dollars- an increase of more than 10 percent. By 2007, the projected military budget of the us is to be an astounding 451 billion dollars: almost half a trillion dollars, without the presence of anything resembling a conventional war. The present military budget is greater than the sum of all other military budgets. In fact, it is greater than the entire federal budget of Russia, once America's immortal adversary, and comprises more than half - 52 percent of all discretionary spending by the us government. (By comparison, education accounts for 8 percent of the federal budget.) A considerable portion of this is given over to "military Keynesianism," according to the well-established paths of the mic. Thus, although in the first years after the fall of the ussr certain firms like General Dynamics, which had played a large role in the nuclear arms race, suffered setbacks, that problem has been largely reversed for the entire class of firms fattening at the trough of militarism. It is fair to say, though, that the largesse is distributed over a wider scale, in accordance with the changing pattern of armaments. us Armies Taking Root Everywhere From having scarcely any standing army in 1940, American armies now stand everywhere. One feature of us military policy since WWII is to make war and then stay where war was made, rooting itself in foreign territory. Currently, the us has military bases in 113 countries, with 11 new ones formed since the beginning of the War Against Terror. The us now has bases in Kazakhstan, Uzbekistan, and Kurdistan, encircling China and creating new sources of military tension. On these bases, the us military has erected some 800,000 buildings. Imagine that: 800,000 buildings in foreign countries that are now occupied by us military establishments. And America still maintains large forces in Germany, Japan, and Korea, with tens of thousands of troops permanently on duty (and making mischief, as two us servicemen recently ran over and killed two Korean girls, provoking massive demonstrations). After the first Gulf War the us military became installed in Saudi Arabia and Kuwait, in which latter place it currently occupies one quarter of the country - 750 square miles devoted to military activity. This huge investment is no doubt determined by proximity to Iraq. Again, after going to war in Kosovo, the us left behind an enormous base in a place called Bondsteel. These self-expanding sites of militarism are permanent goads to terrorist organizations. Recall that one of Osama bin Laden's professed motivations for al-Qaeda's attacks on American facilities was the presence of us bases in his home country of Saudi Arabia. The bases are also permanent hazards to the environment - indeed, the us, with some 800,000 buildings on these military sites, is the world's largest polluter and the largest consumer of fossil fuels. With territorial expansion of the us military apparatus, there is a corresponding expansion of mission. For instance, in Colombia, where billions of us dollars are spent in the "War on Drugs," us troops are now being asked to take care of pipelines through which vital oil reserves are passing. In addition, the War on Drugs is now subsumed into the War Against Terror. The signifier of Terror has virtually unlimited elasticity, for once an apparatus reaches the size of the us military machine, threats can be seen anywhere. With the inauguration of the new hard-line president of Colombia, Alvaro Uribe, the us authorized the use of 1.7 billion dollars in military aid hitherto limited to anti-drug operations for direct attacks on deeply entrenched farc guerrillas. This redirection of aid came after Colombian officials and their American supporters in the Congress and Bush administration argued that the change was needed as part of the global campaign against terrorism. Within this overall picture, American armed forces are undergoing a qualitative shift of enormous proportion. In words read by President Bush: “Our forces in the next century must be agile, lethal, readily deployable, and must require a minimum of logistical support. We must be able to project our power over long distances in days or weeks rather than months. On land our heavy forces must be lighter, our light forces must be more lethal. All must be easier to deploy.” Crossing Weapons Boundaries - Both Nuclear and Conventional As a result, many boundaries and limits of the bipolar era have been breached. For example, the distinction between nuclear and conventional weapons had always constituted a radical barrier. The standoff between the us and the ussr was epitomized by mind-numbing hydrogen bomb-missiles facing each other in a scenario called “Mutual Assured Destruction.î”In short, a strategic condition of deterrence prevailed, which made nuclear weapons seem unthinkable. With the demise of the ussr, deterrence no longer inhibits us nuclear weaponry, and the weapons themselves have proliferated downward, becoming miniaturized and increasingly tactical rather than strategic. Meanwhile, the genie of the weapons industries has developed ever more destructive “conventional” weapons. These include non-explosive devices of awesome power, such as laser beams, microwaves, and large-scale climate manipulation, along with a new generation of super-powerful explosive devices. Thus the strongest non-nuclear weapons are now considerably more lethal than the least powerful nuclear weapons, making the latter thinkable and eliminating a major barrier against their employment. These so-called conventional bombs have already been used, for example, in Afghanistan, where the us employed a gigantic explosive weapon, called a “Bunker Buster” to root out al-Qaeda combatants in underground bunkers. They are based upon the “daisy cutter,” a giant bomb about the size of a Volkswagen Beetle and capable of destroying everything within a square kilometer. Significantly, the model used in Afghanistan, the B61-11, already employs nuclear technology, the infamous depleted uranium warhead, capable by virtue of its extreme density, of great penetrating power. Depleted uranium (du) is a by-product of the nuclear power industry (chiefly being U-238 created in the extraction of U-235 from naturally occurring uranium ore). Over 500,000 tons of deadly du have accumulated and 4-5,000 more tons are being produced every year. Like all products of the nuclear power industry, du poses immense challenges of disposal. It has this peculiar property of being almost twice as dense as lead and it is radioactive with a half-life of 4.5 billion years. Wherever depleted uranium is used, it has another peculiar property of exploding, vaporizing at 56 degrees centigrade, which is just like a little more than half the way to boiling water. So it is very volatile, it explodes, it forms dust and powders that are inhaled, disburses widely, and produces lethal cancers, birth defects, and so forth for 4.5 billion years. In the case of depleted uranium, the challenge of disposal was met by incorporating the refuse from the “peaceful” branch of nuclear technology into the war-making branch. Already used in anti-tank projectiles in the first Iraq war (approximately 300 tons worth) and again in Yugoslavia (approximately 10-15 tons were used in each of the various Yugoslav wars), it is presumed, although the defense department coyly denies it, that this material was also used in the Afghanistan war. Depleted uranium has spread a plague of radioactivity and further rationalized the use of nuclear weapons as such. Consequently, the B61-11 is about to be replaced with the BLU113, where the bunker buster will now be a small nuclear weapon, almost certainly spear-tipped with du. Pollutants to Earth and Space To the boundaries crossed between nuclear and non-nuclear weapons, and between the peaceful and militaristic uses of atomic technology, we need to add those between earth and its lower atmosphere on the one hand, and space on the other. The administration is poised to realize the crackpot and deadly schemes of the Reagan administration to militarize space and to draw the rest of the world into the scheme, as client and victim. In November 2002, Bush proposed that nato allies build missile defense systems, with components purchased, needless to add, from Boeing, Raytheon, etc, even as Congress was approving a fiscal 2003 defense budget containing $7.8 billion authorization for missile defense research and procurement, as part of the $238 billion set aside for Star Wars over the next 20 years. The administration now is poised to realize the crackpot and deadly schemes of the Reagan administration to militarize space and to draw the rest of the world into the scheme, as client and victim. A new missile defense system bureaucracy has risen. It is currently developing such wild items as something called ìbrilliant pebblesî which involves the release of endless numbers of mini satellites into outer space. All of this was to protect the world against the threat of rogue states such as North Korea. As the Seattle Times reported, the us expects the final declaration to, “express the need to examine options to protect allied forces, territories, and population centers against the full range of missile threats.” As an official put it, "This will establish the framework within which nato allies could work cooperatively toward fielding the required capabilities. With the us withdrawal this year from the anti-ballistic treaty with Russia, it is no longer a question of whether missile defenses will be deployed. The relevant questions are now what, how, and when. The train is about to pull out of the station; we invite our friends, allies, and the Russian Federation to climb on board." The destination of this train is defensive only in the Orwellian sense, as the missiles will be used to defend us troops in the field. In other words, they will be used to defend armies engaged in offensive activities. What is being “defended” by the Strategic Defense Initiative (sdi), therefore, is the initiative to make war everywhere. Space has now become the ultimate battlefield. And not just with use of these missiles. The High Frequency Active Aural Research Program (haarp) is also part of sdi. This amounts to weather warfare: deliberately manipulating climate to harm and destroy adversaries. A very dubious enterprise, to say the least, in an age when global warming and climate instability are already looming as two of the greatest problems facing civilization. The chief feature is a network of powerful antennas capable of creating controlled local modifications of the ionosphere and hence producing weather disturbances and so forth. All of these technical interventions are accompanied by many kinds of institutional and political changes. The National Aeronautics and Space Administration, nasa, for instance, is now a partner in the development of this strategic defense initiative. The very way in which the United Nations was drawn into the resolution in the war against Iraq is a breach and a violation of the original un Charter, which is to never make war, never to threaten to make war on any member state. The un was a peacemaking institution, but now the Super power has forced it into its orbit. The scrapping of the abm and other elements of the treaty structure (non- proliferation, test-ban) that had organized the world of the Cold War is one part of a process of shedding whatever might inhibit the cancerous growth of militarism. It also creates an atmosphere of general lawlessness in the world. This is felt at all levels, from the rise of an ultra-militarist clique in the White House to the formal renunciation of no-first-use nuclear strategy, the flouting of numerous un regulations, the doctrine of pre-emptive war, and, as the logical outcome of all these developments, the condition of Permanent War and its accompaniment of general lawlessness, media slavishness, and a wave of repression for whose parallel we have to go back to the Alien and Sedition acts of the 1790s, or Trumanís loyalty oaths of 1947. Militarism cannot be reduced to politics, economics, technology, culture, or psychology. All these are parts of the machine, make the machine go around, and are themselves produced by the actions of the machine. There is no doubt, in this regard, that the machine runs on natural resources (which have to be secured by economic, political, and military action), and that it is deeply embedded in the ruling corporate order. There is no contradiction here, but a set of meshing parts, driven by an insensate demand for fossil fuel energy. As a man from Amarillo, Texas put it when interviewed by npr as to the correctness of Bush’s plan to go to war in Iraq: “I agree with the president, because how else are we going to get the oil to fly the F-16s?” We go to war, in other words, to get the oil needed to go to war. A Who's Who List of MIC Beneficiaries The fact that our government is front-loaded with oil magnates is another part of the machine. It is of interest, therefore, that Unocal, for example, celebrated Condoleezza Riceís ascendancy to the post of National Security Advisor by naming an oil tanker after her. Or that Dick Cheney, originally a poor boy, became a rich man after the first Gulf War, when he switched from being Secretary of Defense, in charge of destroying the Kuwait oil fields, to ceo of a then-smallish company, Halliburton, in charge of rebuilding the same oil fields. Or that G.W. Bush himself, aside from his failed venture with Harken Oil, is scion of a family and a dynasty that controls the Carlyle Group, founded in 1987 by a former Carter administration official. Carlyle is now worth over $13 billion and its high officials include President Bush I, his Secretary of State (and fixer of the coup that put Bush II in power) James Baker, Reaganís Secretary of Defense Frank Carlucci, former British Prime Minister John Major, and former Phillipine President Fidel Ramos, among others. The Carlyle Group has its fingers everywhere, including ìdefenseî, where it controls firms making vertical missile launch systems currently in use on us Navy ships in the Arabian sea, as well as a range of other weapons delivery systems and combat vehicles. And as a final touch which the worldís people would be much better off for knowing, there are very definite connections between Carlyle and the family of Osama bin Laden - a Saudi power whose fortunes have been fused with those of the United States since the end of World War II. Thus the military-industrial complex lives, breathes, and takes on new dimensions. There is a deep structural reason for the present explosion of us militarism, most clearly traceable in the activities of Vice President Cheney, made clear in the energy report that he introduced with the generous assistance of Enron executives in May 2001. According to the report, American reliance on imported oil will rise by from about 52 percent of total consumption in 2001 to an estimated 66 percent in 2020. The reason for this is that world production, in general, and domestic production in particular are going to remain flat (and, although the report does not discuss this, begin dropping within the next 20 years). Meanwhile consumptionówhich is a direct function of the relentless drive of capitalism to expand commodity productionóis to grow by some two- thirds. Because the usage of oil must rise in the worldview of a Cheney, the us will actually have to import 60 percent more oil in 2020 to keep itself going than it does today. This means that imports will have to rise from their current rate of about 10.4 million barrels per day to about 16.7 million barrels per day. In the words of the report: “The only way to do this is persuade foreign suppliers to increase their production to sell more of their output to the us.” The meaning of these words depends of course on the interpretation of “persuade”, which in the us lexicon is to be read, I should think, as requiring a sufficient military machine to coerce foreign suppliers. At that point they might not even have to sell their output to the us, as it would already be possessed by the superpower. Here we locate the root material fact underlying recent us expansionism. This may seem an extravagant conclusion. However an explicit connection to militarismóand Iraqóhad been supplied the month before, in April 2001, in another report prepared by James Baker and submitted to the Bush cabinet. This document, called “Strategic Energy Policy Challenges for the 21st Century,” concludes with refreshing candor that ìthe us remains a prisoner of its energy dilemma, Iraq remains a destabilizing influence to the flow of oil to international markets from the Middle East, Saddam Hussein has also demonstrated a willingness to threaten to use the oil weapon and to use his own export program to manipulate oil markets, therefore the us should conduct an immediate policy review toward Iraq, including military, energy, economic, and political diplomatic assessments. Note the absence of reference to “weapons of mass destruction,” or aid to terrorism, convenient rationalizations that can be filled in later. Clearly, however things turn out with Iraq, the fundamental structural dilemma driving the military machine pertains to the contradictions of an empire that drives toward the invasion of all social space and the total control over nature. Since the former goal meets up with unending resistance and the latter crashes against the finitude of the material world, there is no recourse except the ever-widening resort to force. But this, the military monster itself, ever seeking threats to feed upon, becomes a fresh source of danger, whether of nuclear war, terror, or ecological breakdown. The situation is plainly unsustainable, a series of disasters waiting to happen. It can only be checked and brought to rationality by a global uprising of people who demand an end to the regime of endless war. This is the only possible path by which we can pull ourselves away from the abyss into which the military machine is about to plunge, dragging us all down with it.

#### **the aff’s certain calculations about war are an impossibly arrogant form of mechanical, sterile analysis that eases the path towards war. their language is coopted to provide rhetorical ammunition for militarists. our alternative is not pure pacifism, but rather a pacifist analysis that injects moral and epistemic doubt into our decisionmaking about war – this is the only way to formulate better policies that address structural causes of war and avoids inevitable cycles of violence**

Neu 13 – prof @ U of Brighton

(Michael, International Relations 27(4), December, The Tragedy of Justified War)

Just war theory is not concerned with millions of starving people who could be saved from death and disease with a fraction of the astronomical amount of money that, every year, goes into the US defence budget alone (a budget that could no longer be justified if the United States ran out of enemies one day). It is not interested in exposing the operat- ing mechanisms of a global economic structure that is suppressive and exploitative and may be conducive to outbreaks of precisely the kind of violence that their theory is con- cerned with. As intellectually impressive as analytical just war accounts are, they do not convey any critical sense of Western moralism. It is as though just war theory were written for a different world than the one we occupy: a world of morally responsible, structurally unconstrained, roughly equal agents, who have non-complex and non-exploitative relationships, relationships that lend themselves to easy epistemic access and binary moral analysis. Theorists write with a degree of confidence that fails to appreciate the moral and epistemic fragility of justified war, the long-term genesis of violent conflict, structural causes of violence and the moralistic attitudes that politicians and the media are capable of adopting. To insist that, in the final analysis, the injustice of wars is completely absorbed by their being justified reflects a way of doing moral philosophy that is frighteningly mechanical and sterile. It does not do justice to individual persons,59 it is nonchalant about suffering of unimaginable proportions and it suffocates a nuanced moral world in a rigid binary structure designed to deliver unambiguous, action-guiding recommendations. According to the tragic conception defended here, justified warfare constitutes a moral evil, not just a physical one – whatever Coates’ aforementioned distinction is supposed to amount to. If we do not recognise the moral evil of justified warfare, we run the risk of speaking the following kind of language when talking to a tortured mother, who has witnessed her child being bombed into pieces, justifiably let us assume, in the course of a ‘just war’: See, we did not bomb your toddler into pieces intentionally. You should also consider that our war was justified and that, in performing this particular act of war, we pursued a valid moral goal of destroying the enemy’s ammunition factory. And be aware that killing your toddler was not instrumental to that pursuit. As you can see, there was nothing wrong with what we did. (OR: As you can see, we only infringed the right of your non-liable child not to be targeted, but we did not violate it.) Needless to say, we regret your loss. This would be a deeply pathological thing to say, but it is precisely what at least some contemporary just war theorists would seem to advise. The monstrosity of some accounts of contemporary just war theory seems to derive from a combination of the degree of certainty with which moral judgments are offered and the ability to regard the moral case as closed once the judgments have been made. One implication of my argument for just theorists is clear enough: they should critically reflect on the one-dimensionality of their dominant agenda of making binary moral judgments about war. If they did, they would become more sympathetic to the pacifist argument, not to the conclusion drawn by pacifists who are also caught in a binary mode of thinking (i.e. never wage war, regardless of the circumstances!) but to the timeless wisdom that forms the essence of the pacifist argument. It is wrong to knowingly kill and maim people, and it does not matter, at least not as much as the adherents of double effect claim, whether the killing is done intentionally or ‘merely’ with foresight. The difference would be psychological, too. Moral philosophers of war would no longer be forced to concede this moral truth; rather, they would be free to embrace it. There is no reason for them to disrespect the essence of pacifism. The just war theorist Larry May implicitly offers precisely such a tragic vision in his sympathetic discussion of ‘Grotius and Contingent Pacifism’. According to May, ‘war can sometimes be justified on the same grounds on which certain forms of pacifism are themselves grounded’.60 If this is correct, just war theorists have good reason to stop calling themselves by their name. They would no longer be just war theorists, but unjust war theorists, confronting politicians with a jus contra bellum, rather than offering them a jus ad bellum. Beyond being that, they would be much ‘humbler in [their] approach to considering the justness of war’ (or, rather, the justifiability), acknowledging that: notions of legitimate violence which appear so vivid and complete to the thinking individual are only moments and snapshots of a wider history concerning the different ways in which humans have ordered their arguments and practices of legitimate violence. Humility in this context does not mean weakness. It involves a concern with the implicit danger of adopting an arrogant approach to the problem of war.61 Binary thinking in just war theory is indeed arrogant, as is the failure to acknowledge the legitimacy of – and need for – ambiguity, agony and doubt in moral thinking about war. Humble philosophers of war, on the contrary, would acknowledge that any talk of justice is highly misleading in the context of war.62 It does not suffice here, in my view, to point out that ‘we’ have always understood what ‘they’ meant (assuming they meant what we think they meant). Fiction aside, there is no such thing as a just war.

 There is also no such thing as a morally justified war that comes without ambiguity and moral remainders. Any language of justified warfare must therefore be carefully drafted and constantly questioned. It should demonstrate an inherent, acute awareness of the fragility of moral thinking about war, rather than an eagerness to construct unbreakable chains of reasoning. Being uncertain about, and agonised by, the justifiability of waging war does not put a moral philosopher to shame. The uncertainty is not only moral, it is also epistemic. Contemporary just war theorists proceed as if certainty were the rule, and uncertainty the exception. The world to which just war theory applies is one of radical and unavoidable uncertainty though, where politicians, voters and combatants do not always know who their enemies are; whether or not they really exist (and if so, why they exist and how they have come into existence); what weapons the enemies have (if any); whether or not, when, and how they are willing to employ them; why exactly the enemies are fought and what the consequences of fighting or not fighting them will be. Philosophers of war should also become more sensitive to the problem of political moralism. The just war language is dangerous, particularly when spoken by eager, self- righteous, over-confident moralists trying to make a case. It would be a pity if philosophers of war, despite having the smartest of brains and the best of intentions, effectively ended up delivering rhetorical ammunition to political moralists. To avoid being inadvertently complicit in that sense, they could give public lectures on the dangers of political moralism, that is, on thinking about war in terms of black and white, good and evil and them and us. They could warn us against Euro-centrism, missionary zeal and the emperors’ moralistic clothes. They could also investigate the historical genesis and structural conditionality of large-scale aggressive behaviour in the global arena, deconstruct- ing how warriors who claim to be justified are potentially tied into histories and structures, asking them: Who are you to make that claim? A philosopher determined to go beyond the narrow discursive parameters provided by the contemporary just war paradigm would surely embrace something like Marcus’ ‘second-order regulative principle’, which could indeed lead to ‘“better” policy’.63 If justified wars are unjust and if it is true that not all tragedies of war are authentic, then political agents ought to prevent such tragedies from occurring. This demanding principle, however, may require a more fundamental reflection on how we ‘conduct our lives and arrange our institutions’ (Marcus) in this world. It is not enough to adopt a ‘wait and see’ policy, simply waiting for potential aggressions to occur and making sure that we do not go to war unless doing so is a ‘last resort’. Large-scale violence between human beings has causes that go beyond the individual moral failure of those who are potentially aggressing, and if it turns out that some of these causes can be removed ‘through more careful decision-making’ (Lebow), then this is what ought to be done by those who otherwise deprive themselves, today, of the possibility of not wronging tomorrow.

### 1NC vs No SP Advantage

#### US is pushing for Europe to sign on to harsher sanctions but lacks credibility

Allam 3/4/2014 (Hannah, “U.S., Europe split over imposing tough sanctions on Russia” Read more here: <http://www.islandpacket.com/2014/03/04/2982336/us-europe-split-over-imposing.html#storylink=cpy>)

U.S. officials are struggling to get Europe on board for harsh punitive measures against Russia, whose incursion into neighboring Ukraine is putting transatlantic relations to the test as nervous European states seek to avoid the fray. Under pressure from U.S. lawmakers to issue a tough response to what they see as Russian President Vladimir Putin’s challenge to U.S. resolve, Obama administration officials have said without much elaboration that a sanctions package is in the works. But it took enormous wrangling to get the European Union to agree to the largely symbolic move of suspending preparations for the Group of 8’s June meeting in Russia, and analysts who receive briefings on the diplomatic efforts said Tuesday that the American side, despite working around the clock, is having difficulty finding common ground with the Europeans. So far, they say, Europe sees high risks for the continent and very little to suggest that any such action would sway a defiant Putin. The options, then, are the United States going the sanctions route alone or watering down the measures to mollify Europe – both scenarios that would please Putin, who has a reputation of exploiting any sign of transatlantic splits. “This is the biggest challenge the transatlantic partnership has had since before the Cold War,” said Susan Corke, director of Eurasia programs at Freedom House and a former State Department official who focused on Europe. “There can’t be an overstating of how important the next 90 days are,” Corke added, referring to fears that, without de-escalation, the Ukrainian caretaker government and the country’s fragile economy won’t make it to elections set for May. The result so far is an unusually public divergence over which course to pursue on Russia, with the United States pushing for what one official described as sanctions that “make it hurt” and European partners such as Germany, the Netherlands and Britain urging a more measured approach that leaves room for diplomacy in a crisis that’s escalated at an alarming pace.

#### **Presidential control of OCOs hurts soft power with European allies**

Dunlap 12, **Major General and Former Deputy Judge Advocate General**

(Lawless Cyberwar? Not If You Want to Win, [www.americanbar.org/groups/public\_services/law\_national\_security/patriot\_debates2/the\_book\_online/ch9/ch9\_ess2.html](http://www.americanbar.org/groups/public_services/law_national_security/patriot_debates2/the_book_online/ch9/ch9_ess2.html))

Military commanders have seen the no-legal-limits movie before and they do not like it. In the aftermath of 9/11, civilian lawyers moved in exactly that direction. Former Attorney General Alberto Gonzales, for example, rejected parts of the Geneva Conventions as “quaint.” He then aligned himself with other civilian government lawyers who seemed to believe that the President’s war-making power knew virtually no limits. The most egregious example of this mindset was their endorsement of interrogation techniques now widely labeled as torture.25 The results of the no-legal-limits approach were disastrous. The ill-conceived civilian-sourced interrogation, detention, and military tribunal policies, implemented over the persistent objections of America’s military lawyers, caused an international uproar that profoundly injured critical relations with indispensable allies.26 Even more damaging, they put the armed forces on the road to Abu Ghraib, a catastrophic explosion of criminality that produced what military leaders like then U.S. commander in Iraq Lieutenant General Ricardo Sanchez labeled as a “clear defeat.”27 Infused with illegalities, Abu Ghraib became the greatest reversal America has suffered since 9/11. In fact, in purely military terms, it continues to hobble counterterrorism efforts. General David Petraeus observed that “Abu Ghraib and other situations like that are non-biodegradable. They don’t go away.” “The enemy,” Petraeus says, “continues to beat you with them like a stick.”28 In short, military commanders want to adhere to the law because they have hard experience with the consequences of failing to do so. Why, then, is Baker—and others—so troubled? Actually, there are legitimate concerns about America’s cyber capabilities, but the attack on the issues is misdirected. Indeed, if Baker substitutes the term policy maker for lawyer and the term policy for law, he might be closer to the truth in terms of today’s cyberwar challenges. To those with intimate knowledge of the intricacies of cyber war, it is not the “law,” per se, that represents the most daunting issue; to them, it ispolicy. For example, retired Air Force General Michael Hayden, the former head of the National Security Agency (NSA), and later Director of the CIA, told Congress in October of 2011 that America’s cyber defenses were being undermined because cyber information was “horribly overclassified.”29 That issue is not sourced in lawyers, but in policy makers who could solve the classification problem virtually overnight if they wanted to. That same month, General Keith B. Alexander, Commander of U.S. Cyber Command and current NSA Director, said that rules of engagement were being developed that would “help to define conditions in which the military can go on the offensive against cyber threats and what specific actions it can take.” General Alexander readily acknowledges the applicability of the law of armed conflict, but suggests that challenges exist in discerning the facts and circumstances to apply to the law.30 This gets to the “act of war” question Baker complains about. The law does provide a framework;31 it is up to decision makers to discern the facts to apply to that framework. Hard to do? Absolutely. But—frankly—such “fog of war” issues are not much different than those military commanders routinely confront in the other domains of conflict where difficult decisions frequently must be made on imperfect information. The ability (or inability) to determine facts is not a legal issue, but as much a technical problem for the specialists to solve. So if there is a difficulty in that regard, the complaint ought to be directed at cyber scientists or even policy strategists, but not the lawyers. Sure, the law requires an ability to determine the source of an attack before launching a military response, but so does good sense and effective military strategy. The same can be said for the legal requirement to assess the impact on civilians and civilian objects before launching a cyber attack. This is information that decision makers would want for political and policy reasons wholly independent of any legal requirements. As the great strategist Carl von Clausewitz observed, “War is the continuation of policy by other means.”32 Again, if the ability to make the calculations that political leaders and policy makers require as much as lawyers is inadequate, that is a technical, not legal, issue. When—and if—the facts and circumstances are determined, weighing them is what policy makers and military commanders “do.” Lawyers may help them, but ultimately it is the decision maker’s call, not the lawyer’s. Any reluctance of decision makers to make difficult fact determinations—if such reluctance does exist—is not, in any event, a deficiency of law, but ofleadership. Of course, such decisions are never exclusively about legal matters. Policy makers and commanders rightly take into account a variety of factors beyond the law. In actual practice, it appears that such considerations often are more limiting than the law. For example, the Washington Post reported that U.S. cyber weapons “had been considered to disrupt Gaddafi’s air defenses” early in NATO’s UN-sanctioned operations aimed at protecting Libyan civilians.33 However, the effort “was aborted,” the Post said, “when it became clear that there was not enough time for a cyber attack to work.” Conventional weapons, it was said, were “faster, and more potent,” a pure military rationale. None of this reflects even the slightest suggestion that “lawyers” or the law frustrated the execution of a cyber operation in Libya. No doubt there was discussion about cyber-reporting obligations under the War Powers Resolution, but Presidents have almost never seen that as a bar to military actions, so it can hardly be said to be something unique to cyber operations or that operated to actually block a cyber attack, per se. Rather, it is but one of the many political considerations applicable to military actions generally, cyber or otherwise. To be clear, the primary concern about the potential use of cyber weaponry against Libya wasnot anything generated by lawyers as Baker might put it, but rather by “administration officials and even some military officers” who, the New York Times says, “balked, fearing that it might set a precedent for other nations, in particular Russia or China, to carry out such offensives of their own.” Along this line, the Times quoted James Andrew Lewis, a senior fellow at the Center for Strategic and International Studies, as opining that the United States does not want to be the “ones who break the glass on this new kind of warfare.”34 Again, the legitimacy of these concerns aside, they illustrate— regardless—that while there may be unresolved policy questions inhibiting cyber operations, that is altogether different from the legal problems of Baker’s imaginings. The threat of cyberwar is certainly an extremely serious one, but surely not a greater peril than is nuclear war. Yet at least insofar as the U.S. military is concerned, nuclear operations can be made amenable to the law.35 In other words, if our survival does not require abandoning the rule of law with respect to nuclear weapons, there is certainly no reason to do so in the cyber realm. Does Baker nevertheless believe that the United States is so vulnerable to catastrophic cyber attack that the nation must reject any legal limits in its cyber response? If, indeed, the United States were as vulnerable to catastrophic attack as Baker would have us believe, al Qaeda or some extremist group certainly would have launched one by now. In point of fact, although cyber crime may be extensive, militarily significant cyber attacks apparently are not so easy to conduct as Baker seems to think. In reporting the rejection of cyber weaponry as a means of dismantling ibyan air defenses, The New York Times noted that: While popular fiction and films depict cyberattacks as easy to mount—only a few computer keystrokes needed—in reality it takes significant digital snooping to identify potential entry points and susceptible nodes in a linked network of communications systems, radars and missiles like that operated by the Libyan government, and then to write and insert the proper poisonous codes. Obviously, if cyber weaponry is technically difficult for the world’s foremost military to use even against a third-world power such as Libya, one may reasonably infer that it is markedly more difficult to use against a sophisticated first-world power, even for a peer or near peer of that power. Rejection of legal limits carries other, real-world consequences that are not in the United States’ cyber interests. An effective response to cyber threats is not an autarchic enterprise; it requires the cooperation of international allies. Baker’s “damn the law and lawyers” approach would cripple our relations with the law-abiding nations whose cooperation we must have to address cyber threats. We need to keep in mind that the vast majority of adverse cyber incidents are criminal matters, and the resolution of them frequently necessitates the involvement of foreign police and judicial authorities who, by definition, require partners who are themselves committed to faithfulness to the rule of law. The importance of legal legitimacy cannot be overstated. As outlined above, few in uniform who have experienced the vicissitudes of war since 9/11 would underestimate the deleterious impact on coalition support that the mere perception of American lawlessness can have.

#### Concessions are key to getting Europe on board with harsher sanctions

Politico 3/23/14 (“Another Obama reset: Europe” <http://www.politico.com/story/2014/03/barack-obama-europe-reset-104917.html?hp=f1>)

Talks with European leaders on Ukraine during this week’s presidential visit will be tough, in part because Obama’s style of diplomacy hasn’t meshed with the European approach in the way many expected, said Schake, now a fellow at Stanford’s Hoover Institution. “Europeans really invest in personal relationships in a way the president doesn’t feel a need to,” she said. “Now we’re asking the Europeans to impose sanctions against Russia that are much more damaging to the European economy than ours. They’re not just going to do it. They’re going to ask what’s in it for them.” The planned focus of the Brussels stop and speech had been trade, and the pending negotiations over the proposed Transatlantic Trade and Investment Partnership. That’s now largely overshadowed by the Ukraine crisis and questions of whether Europe and the U.S. can forge a response that is both robust and unified. However, even the trade issues have some Europeans skeptical at the moment, since Obama is trying to wrap up negotiations even as Senate Majority Leader Harry Reid vows not to give fast-track authority for such a deal. The negotiations are also triggering concern in Europe over a lack of transparency, fueling fears that a new trade deal will bring major backsliding in European regulation and lead to massive imports of hormone-ridden American poultry and beef. “There’s a lot of resistance building up in Europe to the secrecy of TTIP,” said Heike MacKerron of the German Marshall Fund. “I think it’s time for a good public policy statement around what this thing is about.” MacKerron said that despite the tensions in relations between the U.S. and Europe under Obama, both sides still regard the other as the most reliable global counterparts in tackling the world’s thorniest problems. ”All things considered, the administration still believes — or I hope they believe — that Europe is the best partner they have. The fact is there is nobody else,” she said. “The glue that keeps us together is not love of history or common values. It’s necessity.”

#### Russian retaliation toward Europe collapses the global economy

Mercier 3/15/14 (Gilbert, “Ukraine’s Crisis: Economic Sanctions Could Trigger a Global Depression” <http://newsjunkiepost.com/2014/03/15/ukraines-crisis-economic-sanctions-could-trigger-a-global-depression/#sthash.pEZWGXtx.dpuf>)

The referendum in Crimea on March 16, 2014 will probably attach the peninsula to the Russian federation. While it is unlikely that NATO will intervene and seek a direct military confrontation with Russia, the United States and the European Union are already cooking some broad and unwise economic sanctions with which to punish Russia. Russia, for its part, has at its disposal some mighty economic weapons with which to retaliate, as needed. The economic pain from this tit for tat of sanctions will be, in particular, inflicted on the EU. Because of the interconnections between all economies and financial markets, mutual economic sanctions could drive a still fragile world economy to a financial crash. The West, acting as if it solely and arrogantly represents the international community, has formulated a hazardous policy to isolate Russia. This ill-advised strategy is extremely shortsighted on all levels. Unlike Iran, Russia is fully integrated into the global economy. A test for BRICS The Ukraine crisis is a major test of BRICS‘ geopolitical validity as an economic group, political force and potential military alliance. China, Russia’s biggest partner in BRICS, has been strangely muted about Ukraine and the Crimea referendum, urging for “restraint on all sides” and pushing for a political solution. During the emergency meeting of the United Nations Security Council on March 15, 2014, on a resolution to declare Crimea’s referendum illegal, China did not side with Russia by using its veto power but instead abstained from voting. China’s abstention does not fare well for the future of BRICS, as it plays into the strategy of the US and its EU partner to isolate Russia. China, by its abstention from the UN vote, and India, Brazil and South Africa, by their subdued responses, have already played into the hands of the US and its European allies. Will China and other BRICS members step in forcefully to stop the madness of multilateral economic sanctions? Dumping US Treasury Bonds Russia, to prevent the announced freeze of its assets in the US, has already acted on the looming sanctions by liquidating more than $100 billion of its holdings in US Treasury Bonds. The bonds, which represent about 80 percent of Russia’s holding in US T-Bonds, were transferred out of the US Central Bank. The withdrawal was revealed by the US central bank when it announced that its holdings in T-Bonds dropped by $105 billion for the week ending March 12, 2014, from $2.96 trillion to $2.85 trillion. This abrupt sale is three times higher than any weekly sale was at the peak of the 2008 financial crisis. Of all countries, China has the means to diffuse the potential economic crisis by also threatening to dump US T-Bonds. China owns an estimated $1.3 trillion in US Treasury Bonds and is the number one investor amongst foreign governments. Other BRICS members such Brazil and India own respectively $250 billion and $64 billion in T-Bonds. Consequently, the threat by BRICS members of a coordinated fire sale would represent more than $1.6 trillion in T-Bonds. This would be a powerful enough “financial weapon of mass destruction,” to quote Warren Buffet, to crash Wall Street, the US dollar, and by a ripple effect, the European financial markets. Economic sanctions’ global boomerang effect China has rightly warned that drastic economic sanctions against Russia, and Russia’s subsequent retaliation could make the global economy “spiral into chaos.” Sanctions on Russian exports would greatly expose the EU. Europe imports 30 percents of its gas from the Russian state-owned company Gazprom. Russia is also Europe’s biggest customer. The EU is, by far, Russia’s leading trade partner and accounts for about 50 percent of all Russian exports and imports. In 2014, EU-Russia overall trade stands at around 360 billion Euros per year. Russia’s total export to the EU, which is principally raw materials such as gas and oil, stands at around 230 billion Euros, while Russia’s imports from the EU amount to around 130 billion Euros of mainly manufactured products as well as foodstuff. The EU is also the largest investor in the Russian economy and accounts for 75 percent of all foreign investments in Russia. In case of Western economic sanctions, Russian lawmakers have announced that they would pass a bill to freeze the assets of European and American companies that operate in Russia. On the other side, more than 100 Russian businessmen and politicians are allegedly targeted by the EU for a freeze of their European assets. Besides Alexey Miller, head of the state-owned Gazprom, the CEO of Rosneft, Igor Sechin, is also apparently on the sanction hit list. Rosneft is the largest listed oil company in the world and, as such, has partners worldwide, including in the West. For example, the US-based company Exxon-Mobil has a $500 million oil-exploration project with Rosneft in Siberia, and Exxon-Mobil is already in partnership with the Russian giant oil company to exploit Black Sea oil reserves.

#### Global economic collapse ensures great power conflict and accesses every impact possible

Green & Schrage, IR Prof @ Georgetown, ’09

[Michael Green, Senior Advisor & Japan Chair @ The Center for Strategic and International Studies & Associate Professor @ The Walsh School of Foreign Service, Steven Schrage, CSIS Scholl Chair in International Business, Former Senior official with the U.S. Trade Representative's Office, State Department and Ways & Means Committee, “It's not just the economy,” March 26th 2009, <http://www.atimes.com/atimes/Asian_Economy/KC26Dk01.html>]

Facing the worst economic crisis since the Great Depression, analysts at the World Bank and the US Central Intelligence Agency are just beginning to contemplate the ramifications for international stability if there is not a recovery in the next year. For the most part, the focus has been on fragile states such as some in Eastern Europe.  However, the Great Depression taught us that a downward global economic spiral can even have jarring impacts on great powers. It is no mere coincidence that the last great global economic downturn was followed by the most destructive war in human history.  In the 1930s, economic desperation helped fuel autocratic regimes and protectionism in a downward economic-security death spiral that engulfed the world in conflict. This spiral was aided by the preoccupation of the United States and other leading nations with economic troubles at home and insufficient attention to working with other powers to maintain stability abroad. Today's challenges are different, yet 1933's London Economic Conference, which failed to stop the drift toward deeper depression and world war, should be a cautionary tale for leaders heading to next month's London Group of 20 (G-20) meeting. There is no question the US must urgently act to address banking issues and to restart its economy. But the lessons of the past suggest that we will also have to keep an eye on those fragile threads in the international system that could begin to unravel if the financial crisis is not reversed early in the Barack Obama administration and realize that economics and security are intertwined in most of the critical challenges we face. A disillusioned rising power? Four areas in Asia merit particular attention, although so far the current financial crisis has not changed Asia's fundamental strategic picture. China is not replacing the US as regional hegemon, since the leadership in Beijing is too nervous about the political implications of the financial crisis at home to actually play a leading role in solving it internationally. Predictions that the US will be brought to its knees because China is the leading holder of US debt often miss key points. China's currency controls and full employment/export-oriented growth strategy give Beijing few choices other than buying US Treasury bills or harming its own economy. Rather than creating new rules or institutions in international finance, or reorienting the Chinese economy to generate greater long-term consumer demand at home, Chinese leaders are desperately clinging to the status quo (though Beijing deserves credit for short-term efforts to stimulate economic growth). The greater danger with China is not an eclipsing of US leadership, but instead the kind of shift in strategic orientation that happened to Japan after the Great Depression. Japan was arguably not a revisionist power before 1932 and sought instead to converge with the global economy through open trade and adoption of the gold standard. The worldwide depression and protectionism of the 1930s devastated the newly exposed Japanese economy and contributed directly to militaristic and autarkic policies in Asia as the Japanese people reacted against what counted for globalization at the time. China today is similarly converging with the global economy, and many experts believe China needs at least 8% annual growth to sustain social stability. Realistic growth predictions for 2009 are closer to 5%. Veteran China hands were watching closely when millions of migrant workers returned to work after the Lunar New Year holiday last month to find factories closed and jobs gone. There were pockets of protests, but nationwide unrest seems unlikely this year, and Chinese leaders are working around the clock to ensure that it does not happen next year either. However, the economic slowdown has only just begun and nobody is certain how it will impact the social contract in China between the ruling communist party and the 1.3 billion Chinese who have come to see President Hu Jintao's call for "harmonious society" as inextricably linked to his promise of "peaceful development". If the Japanese example is any precedent, a sustained economic slowdown has the potential to open a dangerous path from economic nationalism to strategic revisionism in China too. Dangerous states It is noteworthy that North Korea, Myanmar and Iran have all intensified their defiance in the wake of the financial crisis, which has distracted the world's leading nations, limited their moral authority and sown potential discord. With Beijing worried about the potential impact of North Korean belligerence or instability on Chinese internal stability, and leaders in Japan and South Korea under siege in parliament because of the collapse of their stock markets, leaders in the North Korean capital of Pyongyang have grown increasingly boisterous about their country's claims to great power status as a nuclear weapons state. The junta in Myanmar has chosen this moment to arrest hundreds of political dissidents and thumb its nose at fellow members of the 10-country Association of Southeast Asian Nations. Iran continues its nuclear program while exploiting differences between the US, UK and France (or the P-3 group) and China and Russia - differences that could become more pronounced if economic friction with Beijing or Russia crowds out cooperation or if Western European governments grow nervous about sanctions as a tool of policy. It is possible that the economic downturn will make these dangerous states more pliable because of falling fuel prices (Iran) and greater need for foreign aid (North Korea and Myanmar), but that may depend on the extent that authoritarian leaders care about the well-being of their people or face internal political pressures linked to the economy. So far, there is little evidence to suggest either and much evidence to suggest these dangerous states see an opportunity to advance their asymmetrical advantages against the international system. Challenges to the democratic model; The trend in East Asia has been for developing economies to steadily embrace democracy and the rule of law in order to sustain their national success. But to thrive, new democracies also have to deliver basic economic growth. The economic crisis has hit democracies hard, with Japanese Prime Minister Aso Taro's approval collapsing to single digits in the polls and South Korea's Lee Myung-bak and Taiwan's Ma Ying Jeou doing only a little better (and the collapse in Taiwan's exports - particularly to China - is sure to undermine Ma's argument that a more accommodating stance toward Beijing will bring economic benefits to Taiwan). Thailand's new coalition government has an uncertain future after two years of post-coup drift and now economic crisis. The string of old and new democracies in East Asia has helped to anchor US relations with China and to maintain what former secretary of state Condoleezza Rice once called a "balance of power that favors freedom". A reversal of the democratic expansion of the past two decades would not only impact the global balance of power but also increase the potential number of failed states, with all the attendant risk they bring from harboring terrorists to incubating pandemic diseases and trafficking in persons. It would also undermine the demonstration effect of liberal norms we are urging China to embrace at home.

### Cyberattack 1NC (Extra T)

#### Interpretation –

#### War powers authority is the president’s power to conduct war as Commander-in-chief

Gerald G. Howard - Spring, 2001, Senior Notes and Comments Editor for the Houston Law Review, COMMENT: COMBAT IN KOSOVO: IGNORING THE WAR POWERS RESOLUTION, 38 Hous. L. Rev. 261, LexisNexis

 [\*270] The issue, then, becomes one of defining and monitoring the authority of the political leader in a democratic nation. Black's Law Dictionary defines "war power" as "the constitutional authority of Congress to declare war and maintain armed forces, and of the President to conduct war as commander-in-chief." n45 The power and authority of United States political leaders to conduct war stems from two documents: the United States Constitution and the War Powers Resolution. n46 One must understand each of these sources of authority to properly assess the legality of the combat operations in Kosovo.

#### Offensive cyber operations must disrupt or damage information in computers & networks or the computers & networks themselves

Washington Post – 8/30/13, Barton Gellman and Ellen Nakashima, U.S. spy agencies mounted 231 offensive cyber-operations in 2011, documents show, <http://www.washingtonpost.com/world/national-security/us-spy-agencies-mounted-231-offensive-cyber-operations-in-2011-documents-show/2013/08/30/d090a6ae-119e-11e3-b4cb-fd7ce041d814_story.html>

The scope and scale of offensive operations represent an evolution in policy, which in the past sought to preserve an international norm against acts of aggression in cyberspace, in part because U.S. economic and military power depend so heavily on computers. “The policy debate has moved so that offensive options are more prominent now,” said former deputy defense secretary William J. Lynn III, who has not seen the budget document and was speaking generally. “I think there’s more of a case made now that offensive cyberoptions can be an important element in deterring certain adversaries.” Of the 231 offensive operations conducted in 2011, the budget said, nearly three-quarters were against top-priority targets, which former officials say includes adversaries such as Iran, Russia, China and North Korea and activities such as nuclear proliferation. The document provided few other details about the operations. Stuxnet, a computer worm reportedly developed by the United States and Israel that destroyed Iranian nuclear centrifuges in attacks in 2009 and 2010, is often cited as the most dramatic use of a cyberweapon. Experts said no other known cyberattacks carried out by the United States match the physical damage inflicted in that case. U.S. agencies define offensive cyber-operations as activities intended “to manipulate, disrupt, deny, degrade, or destroy information resident in computers or computer networks, or the computers and networks themselves,” according to a presidential directive issued in October 2012. Most offensive operations have immediate effects only on data or the proper functioning of an adversary’s machine: slowing its network connection, filling its screen with static or scrambling the results of basic calculations. Any of those could have powerful effects if they caused an adversary to botch the timing of an attack, lose control of a computer or miscalculate locations.

#### Violation – The aff includes cyberattacks AND cyberexploitation – cyberexploitation doesn’t disrupt its target – only cyberattacks are “conduct of war”

James A. Lewis – Senior Fellow, Tech & Public Policy, CSIS - September 2010, Thresholds for Cyberwar, http://csis.org/files/publication/101001\_ieee\_insert.pdf

There is a broad range of hostile or malicious action in cyberspace – crime, espionage, attacks, and political action. The identity of those who engage in these actions can be indeterminate, and these activities, at some level, often overlap. This does not justify, however, a similar blurring and imprecision in our discussions of cyber conflict. We can reduce this blurring by disaggregating the different kinds of conflict. This essay focus on the use of the internet or cyberspace for armed conflict, review the utility and use of cyberattack, and considers the behavior of states, their military forces or proxies, and other armed groups in waging cyber war. Questions persist as to the appropriate framework for considering this new mode of conflict, but to a degree these questions result from weak data, imprecise terminology and a certain reluctance to abandon the notion that cyber conflict is unique and sui generis, rather than being just another new technology applied to warfare. Imprecision in terminology hampers serious discussion of these issues. It is not correct to call every bad thing that happens on the internet “war” or “attack.”

 The thresholds for war or attack should not be very different in cyberspace than they are for physical activity. We can also focus discussion by defining cyber war as the use of force to cause damage, destruction or casualties for political effect by states or political groups. A cyber attack would be an individual act intended to cause damage, destruction, or casualties. There is a gray area, of course, when we think about disruption, particularly the disruption of services and data, and when this disruption rises to the level of the use of force. The threshold should be very high for calling a disruptive activity an act of war or attack. An act of war involves the use of force for political purposes by or against a state. Force involves violence or intimidation (the threatened of the use of force). These are useful thresholds for deciding when an event in cyberspace is an act of war or justifies the use of force. If there is no violence, it is not an attack

. If there is no threat of violence, it is not the use of force. In making this distinction, it is important to note the role of clandestine or covert activities. If an opponent intends for a cyber exploit to be undetected, and if the exploit does not inflict physical damage or destruction, it is not intimidation, not the use of force, and not an attack.

#### Vote Neg

#### Limits – Cyber-exploitation includes a whole list of potential clandestine activities: stealing trade secrets, monitoring allies, spying on enemies, data mining, etc. That adds at least 4 new areas to the 4 already in the topic – neg can’t keep up.

#### Ground – Cyber-exploitation for spying and economic gain have nothing to do with war – skirts all our core DAs and gives the aff unfair, unpredictable advantage ground

#### Extra T is a voting issue – Severing the untopical parts of the aff force the neg to go for T just to get back to zero – no time to go for a substantive strategy and T

## Case

### Solvency

#### Alt Cause – Cyber espionage

#### a) OCO only includes cyber attack – that was on T

#### b) That eliminates solvency – Cyber espionage will be interpreted as Cyber attack

Willams 11, JD Harvard Law (Robert D., (Spy) Game Change: Cyber Networks, Intelligence Collection, and Covert Action, www.gwlr.org/wp-content/uploads/2012/08/79-4-R\_Williams.pdf

Cyber operations may influence the affairs of a foreign power or the relations between that power and the United States in two ways. First, because cyber exploitations and cyber attacks bear such a high degree of similarity, intrusions intended as cyber exploitations may be interpreted by the adversary as attacks. Presumably the adversary’s reaction under such circumstances would be commensurate with its interpretation, producing a result—perhaps even as drastic as declaring war—that properly can be described as influencing political, economic, or military conditions abroad. As with other activities traditionally understood as covert actions—e.g., covert paramilitary operations, propaganda, political action, and election support147—this manifestation of the crown jewels problem would entail the very species of consequence that Congress sought to regulate by subjecting covert actions to careful oversight. Second, to the extent we have cause for concern about the potential knock-on effects of a cyber exploitation, the prospect that those effects will influence political, economic, or military conditions abroad in unanticipated ways further counsels a heightened measure of ex ante caution with respect to authorization of such operations.

#### Executive circumvention ensures no solvency

Dycus 10, Professor of National Security Law at Vermont

(Stephen, Congress’ Role in Cyber Warfare, http://jnslp.com/wp-content/uploads/2010/08/11\_Dycus.pdf)

Congress’s active role in the development and implementation of cyber warfare policy is no guarantee of national security. The policy might be flawed in various ways. There is also a risk that whatever policy is adopted will not be properly executed or that its execution will have unintended results. The policy might be misunderstood or might not provide clear or appropriate guidance in the urgent circumstances facing its interpreter. The person charged with implementing the policy might make a mistake – for example, by interpreting a potential enemy’s electronic espionage as an attack. Available cyber weaponry might not work as planned. Or a purely defensive move by U.S. operators might be construed by another nation as offensive, and provoke an attack. Nor can the clearest policy, statutory or executive, guarantee compliance by an Executive determined to ignore it. The rules might be construed by the President in a way that reduces the importance of Congress’s role. Or they might be challenged in court.

#### Alt cause – verbiage

Brennan 12, Lieutenant in the Army

(John W., “United States Counter Terrorism Cyber Law and Policy, Enabling or ~~Disabling~~?” March 15, 2012, <http://nsfp.web.unc.edu/files/2012/09/Brennan_UNITED-STATES-COUNTER-TERRORISM-CYBER-LAW-AND-POLICY.pdf>)

Another potential genesis for the policy debate is the inconsistent verbiage used between the Military and the IC when categorizing operations in cyberspace. For example, if any data within an enemy computer network is modified, then the operation is labeled a Computer Network Attack (CNA) by the military. 61 The IC considers data manipulation as an Offensive Cyber Operation (OCO), a title which is much more palatable to CT lawyers than the term Computer Network Attack, even though the intent and outcome of the operations are identical.62 The differences between these labels are 2-16 frequently referenced in policy debates, which ultimately slow down the process of finding and interdicting terrorists.

#### A network of national security officials actually determines policy --- enacting external checks just legitimates them without providing any constraint

Glennon, 14 --- Professor of International Law at Tufts (Michael, Harvard National Security Journal, “National Security and Double Government,” [http://harvardnsj.org/wp-content/uploads/2014/01/Glennon-Final.pdf)](http://harvardnsj.org/wp-content/uploads/2014/01/Glennon-Final.pdf%29))

VI. Conclusion

U.S. national security policy has scarcely changed from the Bush to the Obama Administration. The theory of Walter Bagehot explains why. Bagehot described the emergence in 19th-century Britain of a “disguised republic” consisting of officials who actually exercised governmental power but remained unnoticed by the public, which continued to believe that visible, formal institutions exercised legal authority.601 Dual institutions of governance, one public and the other concealed, were referred to by Bagehot as “double government.”602 A similar process of bifurcated institutional evolution has occurred in the United States, but in reverse: a network has emerged within the federal government that exercises predominant power with respect to national security matters. It has evolved in response to structural incentives rather than invidious intent, and it consists of the several hundred executive officials who manage the military, intelligence, diplomatic, and law enforcement agencies responsible for protecting the nation’s security. These officials are as little disposed to stake out new policies as they are to abandon old ones. They define security more in military and intelligence terms rather than in political or diplomatic ones. Enough examples exist to persuade the public that the network is subject to judicial, legislative, and executive constraints. This appearance is important to its operation, for the network derives legitimacy from the ostensible authority of the public, constitutional branches of the government. The appearance of accountability is, however, largely an illusion fostered by those institutions’ pedigree, ritual, intelligibility, mystery, and superficial harmony with the network’s ambitions. The courts, Congress, and even the presidency in reality impose little constraint. Judicial review is negligible; congressional oversight dysfunctional; and presidential control nominal. Past efforts to revive these institutions have thus fallen flat. Future reform efforts are no more likely to succeed, relying as they must upon those same institutions to restore power to themselves by exercising the very power that they lack. External constraints—public opinion and the press—are insufficient to check it. Both are manipulable, and their vitality depends heavily upon the vigor of constitutionally established institutions, which would not have withered had those external constraints had real force. Nor is it likely that any such constraints can be restored through governmental efforts to inculcate greater civic virtue, which would ultimately concentrate power even further. Institutional restoration can come only from an energized body politic. The prevailing incentive structure, however, encourages the public to become less, not more, informed and engaged.

#### Executive lawyers instruct the president in how to circumvent the plan

Shane, 12 --- Jacob E. Davis and Jacob E. Davis II Chair in Law, The Ohio State University Moritz School of Law (Peter M., Journal of National Security Law & Policy, “Executive Branch Self-Policing in Times of Crisis: The Challenges for Conscientious Legal Analysis,” 5 J. Nat'l Security L. & Pol'y 507))

II. The Breakdown of Government Lawyering

The military and foreign policy disasters generated by presidential unilateralism demonstrate the practical importance of maintaining a pluralist view of checks and balances. Political officials are not simply rational actors who respond with dispassionate calculation to evidence and circumstance. Facts and options are always filtered through ideological prisms. Presidentialism narrows the prism. Pluralism works to offset that filtering. Pluralism guards against too much distortion by seeking to maximize the number of meaningful institutional voices in the policy making process.

Equally troubling is the risk of presidentialism to the rule of law. Even in normal times, a heavy burden falls on government attorneys in virtually every agency. Government lawyering frequently represents the exclusive avenue through which the law is actually brought to bear on decisionmaking. This professional review within the executive branch is crucial. Most government decisions are simply too low in visibility, or too diffuse in impact, to elicit judicial review or congressional oversight as ways of monitoring legal compliance. Yet, the ideological prism of presidentialism can bend the light of the law so that nothing is seen other than the claimed prerogatives of the sitting chief executive. Champions of executive power - even skilled lawyers who should know better - wind up asserting that, to an extraordinary extent, the President as a matter of constitutional entitlement is simply not subject to legal regulation by either of the other two branches of government.

[\*511] Government attorneys must understand their unique roles as both advisers and advocates. In adversarial proceedings before courts of law, it may be fine for each of two contesting sides, including the government, to have a zealous, and not wholly impartial, presentation, with the judge acting as a neutral decisionmaker. But in their advisory function, government lawyers must play a more objective, even quasi-adjudicative, role. They must give the law their most conscientious interpretation. If they fail in that task, frequently there will be no one else effectively situated to do the job of assuring diligence in legal compliance. Government lawyers imbued with the ideology of presidentialism too easily abandon their professional obligations as advisers and too readily become ethically blinkered advocates for unchecked executive power.

Jack Goldsmith headed the Office of Legal Counsel (OLC) for a little less than ten months in 2003-2004. Of the work done by some government attorneys and top officials after 9/11, he said they dealt with FISA limitations on warrantless surveillance by the National Security Agency (NSA) "the way they dealt with other laws they didn't like: they blew through them in secret based on flimsy legal opinions that they guarded closely so no one could question the legal basis for the operations." n7 He describes a 2003 meeting with David Addington, who was Counsel and later Chief of Staff to Vice President Dick Cheney, in which Addington denied the NSA Inspector General's request to see a copy of OLC's legal analysis in support of the NSA surveillance program. Before Goldsmith arrived at OLC, "not even NSA lawyers were allowed to see the Justice Department's legal analysis of what NSA was doing." n8

OLC's analysis of the legality of NSA surveillance, issued on January 19, 2006, justified the program on two grounds: the President's inherent war powers and the Authorization for Use of Military Force (AUMF). However, the AUMF did not say anything about electronic surveillance. In 1978, Congress expressly stated that no statute other than the Foreign Intelligence Surveillance Act (FISA) or Title III - the law that applies to ordinary federal criminal prosecution - provides authority for electronic surveillance by the federal government. The AUMF could supersede FISA by repealing it, but only by making the repeal explicit. An argument that the AUMF implicitly repealed FISA necessarily falls short. OLC also argued that the President had an inherent constitutional power to conduct the NSA program no matter what FISA said. According to OLC, if FISA of 1978, as amended, were read to preclude the NSA program, the statute would be unconstitutional. n9

 [\*512] What prompted the Justice Department to argue in this fashion? One answer might be that Justice Department lawyers are institutionally expected to advocate for the President's powers and simply adopt the most ambitious arguments consistent with appropriate standards of professional competence in legal research and analysis. However, it is not the responsibility of Justice Department lawyers to advocate for every contemplated assertion of presidential authority, no matter how far-fetched. Even in my brief period at Justice, I witnessed multiple and significant examples of Department lawyers refusing to provide analytic support for legally ill-conceived proposals for executive action. Moreover, it is difficult to make a case for the professional competence of the FISA memorandum. Although the Justice Department manages to elaborate its views in over forty pages of single-spaced and highly technical verbiage, its memorandum never confronts the enormity of the initiative it is endorsing or the power of alternative arguments. Instead, it proffers distinctions from contrary precedents that are often, in a word, silly. Even if the authors felt institutionally constrained to reach a particular bottom line, the failure to assert any principle limiting the claims being made and the too-frequent lack of rhetorical judgment in structuring their argument suggest something other than diligent lawyering was at play.

What accounted for the bad arguments was political and professional pressure. When I worked at Justice, the refusal to take positions that could not be defended by respectable standards did not harm the lawyer. As anyone who has ever worked in an organization knows, however, informal pressure can be an extraordinarily effective method of stifling disagreement and guiding decisions in the way top management desires. We know that supervision of the process of executive branch lawyering on the NSA memorandum was significantly usurped by the Office of the Vice President. David Addington, the Vice President's Counsel, and John Yoo, then a deputy in OLC, worked together to craft a series of arguments for unprecedented claims of executive power to pursue the campaign against terrorism. n10 Jack Goldsmith reports that Addington blackballed from future advancement in the executive branch any lawyer who dared cross swords with him. n11

The deficiencies of legal analysis of NSA surveillance were replicated in other initiatives after 9/11, including the treatment of persons captured and suspected of aiding and abetting terrorism. The Justice Department, through OLC, produced legal opinions stating, in effect, that anyone [\*513] captured in the Afghanistan campaign had few, if any, rights under U.S. or international law and certainly no rights susceptible to vindication in U.S. courts. n12 The function of these legal opinions - indeed, their obvious purpose - was to ratify a scheme of maximum license to do with the detainees whatever the military, the CIA, or any other U.S. authority might choose to do with them. The Administration's lawyering process cleared the path to horrors at the Abu Ghraib prison and Guantanamo - crimes whose stain upon our national honor is likely to remain, for decades at least, firmly embedded in the world's collective memory, deeply undermining our image and influence abroad.

It is understandable that the Administration would want some flexibility in dealing with a threat it rightly regarded as in some ways unprecedented and of very grave magnitude. And yet, to move the detainees so completely beyond the realm of normal legal process was itself a plainly risky strategy in terms of compromising international support, exposing U.S. military personnel to mistreatment, risking the honor of U.S. military culture, and weakening the fabric of international law generally in its protection of both combatants and civilians during wartime. The desire for flexibility was understandable, but not at the cost of all other values.

On a number of the most important points discussed in the OLC lawyers' memoranda, the courts subsequently held them to be wrong. Contrary to OLC, the Supreme Court held that foreign detainees at Guantanamo who challenged their classification as enemy combatants were entitled to judicial review of the legality of their detention. n13 Contrary to OLC, the Court held that the Geneva Conventions protected the detainees, whether or not they strictly qualified as prisoners of war. n14 Contrary to OLC and Justice Department briefs, the Court held that the military commissions as originally constituted were not sufficiently protective of the detainees' rights to permit their use for war crimes trials. n15

On all of these questions, whether of morality, policy, or law, there were at least serious arguments to be entertained by both sides. The fact that the Administration reached incorrect conclusions is, in itself, only a limited indictment of its lawyering. Even good lawyers make mistakes, and the fact that executive branch lawyers would consistently make mistakes erring on the side of executive authority is not in itself damning. What is damning, however, is that on critical questions - questions going to the core of national honor and identity - executive branch lawyering was not just [\*514] wrong, misguided, or ethically insensitive. It was incompetent. It was so sloppy, so one-sided, and at times so laughably unpersuasive that it cannot be defended as ethical lawyering in any context. Tax advice this bad would be malpractice. Government lawyering this bad should be grounds for discharge.

**1nc preempt**

**No cyber war – exaggeration**

**Guo 12, IT and legal consultant with a JD from University of Miami**

(Tony, "Shaping Preventive Policy in “Cyber War” and Cyber Security: A Pragmatic Approach" Cyber Security and Information Systems Information Analysis Center, Vol 1 Num 1, October 2012, [https://www.thecsiac.com/journal\_article/shaping-preventive-policy-“cyber-war”-and-cyber-security-pragmatic-approach#.UhP31JLvuSo](https://www.thecsiac.com/journal_article/shaping-preventive-policy-#.UhP31JLvuSo))

 “**Cyber war”** today **exists** only **in the hypothetical**, and **its disastrous impacts are** often **exaggerated**. For instance, **the Estonia incident** **is a** commonly cited **example** by proponents of “cyber war,” where a number of Estonian government websites were temporarily disabled by angry Russian citizens. A crude distributed denial of service (DDoS) attack was used to temporarily keep users from viewing government websites. To borrow an analogy, the **attack was akin to sending an army of robots to board a bus**, filling the bus **so** that regular **riders could not get on.** A website would fix this the same way a bus company would, by identifying the difference between robots and humans, and preventing the robots from getting on. A following MSNBC article dressed up the Estonia incident and asked the question, **could a cyber skirmish lead the U.S. to actual war**? Imagine this scenario: Estonia, a NATO member, is cut off from the Internet by cyber attackers who besiege the country’s bandwidth with a devastating denial of service attack. Then, the nation’s power grid is attacked, threatening economic disruption and even causing loss of life as emergency services are overwhelmed . . . outside researchers determine the attack is being sponsored by a foreign government and being directed from a military base. Desperate and outgunned in tech resources, Estonia invokes Article 5 of the NATO Treaty -- an attack against one member nation is an attack against all. The article claimed that “half of this fictional scenario occurred in 2007.” In reality, a lot **less than half of it occurred**, most Estonian sites immediately cut off access to international traffic soon after the increased bandwidth consumption, and botnet IP addresses were soon filtered out. Most of the attackers could not be traced, but one man was later arrested and fined £830 for an attack which blocked the website of the Prime Minister’s Reform Party. “**Cyber war” has been a source of confusion due to the ubiquitous application of the terminology**, inclusive of cyber crimes and cyber espionage. Cyber warfare **comes with many faulty premises,** for instance, **proponents** **argue** that **it might allow terrorists to s**uccessfully **attack** a much larger target and do disproportionate damage. However, the reality is that any sufficiently **effective attack will invite disproportionate retaliation**. For instance, one nation may be able to make the claim that any number of nations is harboring “cyber terrorists” and invoke the right of preemptory self-defense. However, “**cyber war” as** **it exists** today **is not kinetic warfare and should not be confused with traditional notions of war**. “**Cyber war” is about how to prevent or respond to a DDoS attack**, and **how to secure systems** and information. Short of “re-engineering the Internet,” **one could simply maintain** **government** networks and critical infrastructure **on closed-networks** using proprietary software or protocols. If an organization has all its systems on a closed circuit, the only threats left are its users. Recent data suggests that problems of attribution may not be the major issue, but having reasonable security is. For instance, the U.S. Department of Homeland Security recently ran a test in 2011 where staff secretly dropped USB drives and CDs in the parking lots of government buildings and private contractors. Of those who picked up the media, an overwhelming 60% plugged them into office computers to see what they contained. If the drive or CD had an official logo, 90% were installed. “The test showed something computer security experts have long known: **Humans are the weak link in the fight to secure networks against sophisticated hackers.”** Moving forward, legislation and international treaties should focus on the immediate concern regarding cyber security, not on hypothetical accounts of “war.” Addressing security is practical--attacks are less likely to succeed on secured systems and networks with diligent operators, especially given that the majority of breaches today are as a result of system failures and employee negligence.

No war - no motives or capability

**Zetter 13, senior reporter at Wired**

(Kim, “Spy Chief Says Little Danger of Cyber ‘Pearl Harbor’ in Next Two Years” March 12, 2013, <http://www.wired.com/threatlevel/2013/03/no-cyber-pearl-harbor/>)

**Contrary** **to** much of the **fear-mongering** that has been spreading through the nation’s capital on cybersecurity matters lately, **the director of national intelligence bucked that trend** on Tuesday **when he told a senate committee** **that there was little chance of a major cyberattack** against critical infrastructure in the next two years. DNI James **Clapper was a singular voice of reason** when he told the Senate Select Committee on Intelligence **that lack of skills** on the part **of** most **attackers** **and** the **ability to override attacks** on critical infrastructure with manual controls **would make** such **attacks unfeasible** in the near future. He also said that nation **states that might have the skills** to pull off such an attack **lack the motive** at this point. “We judge that there is a remote chance of a major cyber attack against U.S. critical infrastructure systems during the next two years that would result in long-term, wide-scale disruption of services, such as a regional power outage,” Clapper said in his statement to the committee. “The level of technical expertise and operational sophistication required for such an attack — including the ability to create physical damage or overcome mitigation factors like manual overrides — will be out of reach for most actors during this time frame. **Advanced cyber actors — such as Russia and China — are unlikely to launch such a devastating attack** against the United States outside of a military conflict or crisis that they believe **threatens their vital interests**.” Clapper’s words come in the wake of increased rhetoric in Washington over a recent report that Chinese hackers, presumed to be supported by that nation’s military and Communist Party apparatus, have been responsible for unprecedented cyberespionage attacks that have resulted in millions of dollars of intellectual property being lost. That report, published by computer security firm Mandiant, suggested that Chinese spies were also targeting critical infrastructure systems with the possible intention of causing sabotage.

**US/China cyber tensions unlikely to cause war**

**Moss --- YOUR AUTHOR --- 13**

Trevor, “Is Cyber War the New Cold War?” The Diplomact, <http://thediplomat.com/2013/04/19/is-cyber-war-the-new-cold-war/?all=true>, Apr. 19

Cyberspace is anarchic, and incidents there span a hazy spectrum from acts of protest and criminality all the way to invasions of state sovereignty and deliberate acts of destruction. Cyber attacks that might be considered acts of war have so far been rare. **It is** certainly **hard to characterise the rivalry between China and the U.S. as** it stands as **cyber warfare**, argues Adam Segal, a senior fellow at the Council on Foreign Relations. “I tend to stay away from the term ‘cyber war’ since we have seen no physical destruction and no deaths,” he explains. Segal accepts that there is a conflict of sorts between China and the U.S. in cyberspace, though he says **it is “likely to remain below a threshold that would provoke military conflict**.”.=¶ While there is no internationally accepted categorization of different kinds of cyber activity (individual states have varying definitions), it is self-evident that some episodes are more serious than others. NATO’s Cooperative Cyber Defence Centre of Excellence (CCDCOE) – a unit based, not by accident, in Estonia, which experienced a massive cyber-attack from Russia in 2007 – distinguishes between “cyber crime,”“cyber espionage,” and “cyber warfare.”¶ **China’s cyber operations, for all their notoriety, have essentially been acts of theft** – either criminals attempting to extract privileged data, or incidents of state-sponsored espionage (some of which, admittedly, had national security implications, such as the extraction of blueprints for the F-35 Joint Strike Fighter). But **these operations did not seek to cause any physical destruction, and** so **would be hard to interpret as acts of war**. This may explain why the U.S. government has been quite tolerant of Chinese hacking until now, seeing **it as an irritant rather than** as **anything more provocative**.

**Auslin says NSA/Cybercom convergence causes war --- they don’t solve**

**1nc article iii**

**Their only solvency advocate is from a libertarian center’s amicus brief**

**No spillover warrant**

**Surveillance alt cause --- their ev**

**authorized by an executive order to conduct domestic surveillance**

**Equipment collapse tanks readiness – your article**

**Spencer 2k** (Jack, Heritage Foundation, “The Facts About Military Readiness,” September 15, 2000, <http://www.heritage.org/research/reports/2000/09/bg1394-the-facts-about-military-readiness>)

**Most of the equipment that the U.S. military uses today, such as Abrams tanks, Apache helicopters, Bradley fighting vehicles, surface ships, submarines, bombers, and tactical aircraft, are aging** much faster than they are being replaced. Due to a shortsighted modernization strategy, some systems are not even being replaced. Lack of funding coupled with increased tempo and **reduced forces has** again **strained the U.S. military's ability to defend vital U.S. interests.¶** For example, between 1991 and 1999, according to a GAO study, the **percentage of mission-capable Air Force fighter aircraft has decreased from 85 percent to 75 percent**.34 Jacques Gansler, Undersecretary of Defense for Acquisition and Technology, points out that "we now have an average age of our fighters in the Air Force of about 20 years. These were designed for a 15-year life."35 The U.S. bomber force consists of B-52s,36 B-1s, and B-2s, none of which are being produced today. In fact, the Air Force has claimed that it does not want a new bomber until 2037, by which time the B-52 will be nearly 90 years old. Although the B-2 is a new bomber, the United States has only produced 21 of these planes.¶ The **Navy's equipment has begun to age rapidly as well. Amphibious ships, for example, are on average over 27 years old**, while the service life of these ships is only 30-35 years.37 Currently, the shipbuilding accounts are inadequate to maintain current force structure. The Navy is being forced to cut its ship building accounts from 8.7 per year--the number needed to maintain a 300-ship Navy--to 6.5 per year.38

**No impact**

**Fettweis 10** – Professor of national security affairs @ U.S. Naval War College. [Christopher J. Fettweis, “Threat and Anxiety in US Foreign Policy,” Survival, Volume 52,

Issue 2 April 2010, pages 59 – 82//informaworld]

**One potential explanation for the growth of global peace can be dismissed fairly quickly: US actions do not seem to have contributed much. The** **limited evidence suggests that there is little reason to believe in the stabilising power of the US hegemon, and that there is no relation between the relative level of American activism and international stability. During the** 19**90s, the U**nited **S**tates **cut back on its defence spending fairly substantially**. By 1998, the United States was spending $100 billion less on defence in real terms than it had in 1990, a 25% reduction.29 To internationalists, defence hawks and other believers in hegemonic stability, this irresponsible 'peace dividend' endangered both national and global security. 'No serious analyst of American military capabilities', argued neo-conservatives William Kristol and Robert Kagan in 1996, 'doubts that the defense budget has been cut much too far to meet America's responsibilities to itself and to world peace'.30 And yet the verdict from the 1990s is fairly plain**: the world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable US military**, or at least none took any action that would suggest such a belief. **No militaries were enhanced to address power vacuums; no security dilemmas drove insecurity or arms races; no regional balancing occurred once the stabilis-ing presence of the US military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in US military capabilities. Most of all, the U**nited **S**tates **was no less safe. The incidence and magnitude of global conflict declined while the U**nited **S**tates **cut its military spending** under President Bill Clinton, and kept declining as the George W. Bush administration ramped the spending back up. **Complex statistical analysis is unnecessary to reach the conclusion that world peace and US military expenditure are unrelated.**

**CMR crisis is reaching crisis proportions**

**Munson 12** (Peter, Marine officer, author, and Middle East specialist, 11-12-12, "A Caution on Civil-Military Relations" Small Wars Journal) smallwarsjournal.com/jrnl/art/a-caution-on-civil-military-relations

This brief post represents only a few quickly dashed thoughts in the hope of getting something on paper that might morph into a longer and more useful essay on civil-military relations. I believe that **civil-military relations in the United States are deeply troubled.** The issues are lurking mostly in the background right now. On the surface, our leadership—civilian and military—has been able to negotiate some relatively complex rapids without any of the major drama that has cropped up in the past. The falling out between Truman and MacArthur comes to mind. Nonetheless, there are serious background **issues that will only get worse in 2014** and beyond. There are several reasons for concern. The all-volunteer force has fought two brutal wars for over a decade while a (guilty or thankful) American population has stood by with very little involvement. There have been no war bonds, no victory gardens, no bandage wrapping drives, no air raid drills—nothing to make them feel a part of the conflict other than the human interest stories about killed and wounded veterans and the once-nightly footage of shattered HMMWVs and burning convoys. This has created an inequality in experience and sacrifice that the public has generally attempted to repay through extreme deference and ever-multiplying shows of thankfulness, the likes of which have never been seen in American society. Part of this is as a corrective to the disgraceful treatment of our Vietnam veterans, to be sure, but it has consequences nonetheless. In the face of such an inequality of experience and service and in such a deferential environment, **public criticism of the military is all too easily dismissed as unpatriotic.** Not only is this foil used to deflect criticism, but its threat deters many from bringing up much needed commentary and dissent. Likewise, **unquestioning support of the military** plays no small factor in **making any discussion of rationalizing military budgets and targeting wasteful military spending difficult, if not impossible.** Late addition: This dynamic plays out in media coverage of the military, as well, leading to an insufficient criticality, or at least a lack of perspective, in much coverage. At worst, the media becomes a propaganda arm or engages in a cult of hero worship that perpetuates the dynamics above. As this coverage creates narratives that impact critical national security decisions, it likewise skews civil-military relations. The media is a central part of any civil-military dynamic in a democracy, providing the information that informs public discourse and shapes the decision-making space. If the media is incapable of being a relatively objective arbiter, this contributes to a flawed civil-military dynamic. The military, itself, has internalized much of this adulation. When ushered to the front of boarding lines at the airport, offered discounts at a myriad of establishments, proffered all sorts of swag at any number of appreciation venues, and even venerated daily on cable news with the incredibly self-centered practice of surprise homecomings, it is difficult for members **of the military not to fall victim to a culture of creeping narcissism.** Faced with lengthy, rapid fire deployments that placed some military members away from the stabilizing influences of family and normality for years of their lives, the military itself had to play up a narrative of sacrifice and exceptionalism to help keep the trains running. This narrative was drummed into the military and reinforced by its members who saw themselves deploying again and again as society stayed home and placed them on a pedestal. This is not to say that the sacrifice was insignificant, but to acknowledge that there were second order effects of the adulation. Even within the military, there was a significant inequality in hardships faced, from “FOBbits” with daily access to all the comforts of home to infantrymen living in squalor and under the constant threat of not only death, but horrific dismemberment. This additional dynamic, as an aside, has led to a significant insecurity on the part of some (but surely not most or all) of those servicemembers who operated in support roles. You can see it in those who make cryptic references to their “special operations” background or play up training that they never rightfully received. You see, even within the military there is a distinct hierarchy of who has truly “been there and done that” and those who feel they must insinuate that they did. I may be wrong, but I get the sense that the post-WWII culture just assumed that everyone had done their part and little need be said about it. In all, **this adds up to a military that** at least in part **feels it has earned entitlement, that it deserves the deferential treatment** it receives, and that America needs to sacrifice to provide for the military—whether that be benefits or budget outlays. **This is an incredibly dangerous cultural artifact, especially in light of the coming period of adjustment. As America’s involvement in Afghanistan winds down and as the nation is forced to adjust to new fiscal realities, the military will face a time of significant adjustment and likely austerity. A military with an entitled culture and an inability to countenance searing introspection will be unable to properly adjust**

to these new realities and will fail to make the necessary reforms, corrections, and resets that the strategic situation demands. More critically, the prospects for **an unfavorable outcome in Afghanistan, coupled with significant budget cuts, will open the door for a “knife in the back” narrative that might argue that the civilian politicians and the American public “lost” the conflict** by giving up on the great sacrifice and heroic efforts of the American military there and, furthermore, the government then slashed the military budget (and perhaps restructured some entitlements) betraying a military charged with facing a plethora of threats around the world. **Such a narrative would be** dangerous—**poisonous—for civil-military relations**. In this it is important to recognize that our political institutions are undergoing a crisis of their own. Trust in government is at its lowest ebb in recent history. Political polarization is at its highest mark since the Great Depression. **Demographic and economic pressures will multiply in coming years** not only on the US, but more significantly on its key allies in Europe. The world will see a significant transformation of its power structure in the coming decades, all of **which will put great strain on the country’s civil-military relations. Thus, it is of critical importance that we discuss, address, and correct any flaws in this dynamic now before they reach crisis proportions in the years to come.**

# 2nc

## Circumvention

### 2NC Overview

#### CIA controls policy --- it empirically lies and gets what it wants

Glennon, 14 --- Professor of International Law at Tufts (Michael, Harvard National Security Journal, “National Security and Double Government,” [http://harvardnsj.org/wp-content/uploads/2014/01/Glennon-Final.pdf)](http://harvardnsj.org/wp-content/uploads/2014/01/Glennon-Final.pdf%29))

Justice Douglas, a family friend of the Kennedys, saw the Trumanites’ influence first-hand: “In reflecting on Jack’s relation to the generals, I slowly realized that the military were so strong in our society that probably no President could stand against them.”375 As the roles of the generals and CIA have converged, the CIA’s influence has expanded—aided in part by a willingness to shade the facts, even with sympathetic Madisonian sponsors. A classified, 6,000-word report by the Senate Intelligence Committee reportedly concluded that the CIA was “so intent on justifying extreme interrogation techniques that it blatantly misled President George W. Bush, the White House, the Justice Department and the Congressional intelligence committees about the efficacy of its methods.”376 “The CIA gets what it wants,” President Obama told his advisers when the CIA asked for authority to expand its drone program and launch new paramilitary operations.377

#### The plan can’t solve --- creates illusion of control that allows national security bureaucracy to flourish

Glennon, 14 --- Professor of International Law at Tufts (Michael, Harvard National Security Journal, “National Security and Double Government,” [http://harvardnsj.org/wp-content/uploads/2014/01/Glennon-Final.pdf)](http://harvardnsj.org/wp-content/uploads/2014/01/Glennon-Final.pdf%29))

V. Is Reform Possible? Checks, Smoke, and Mirrors

Madison, as noted at the outset,543 believed that a constitution must not only set up a government that can control and protect the people, but, equally importantly, must protect the people from the government.544 Madison thus anticipated the enduring tradeoff: the lesser the threat from government, the lesser its capacity to protect against threats; the greater the government’s capacity to protect against threats, the greater the threat from the government.

Recognition of the dystopic implications of double government focuses the mind, naturally, on possible legalist cures to the threats that double government presents. Potential remedies fall generally into two categories. First, strengthen systemic checks, either by reviving Madisonian institutions—by tweaking them about the edges to enhance their vitality— or by establishing restraints directly within the Trumanite network. Second, cultivate civic virtue within the electorate.

A. Strengthening Systemic Checks

The first set of potential remedies aspires to tone up Madisonian muscles one by one with ad hoc legislative and judicial reforms, by, say, narrowing the scope of the state secrets privilege; permitting the recipients of national security letters at least to make their receipt public; broadening standing requirements; improving congressional oversight of covert operations, including drone killings and cyber operations; or strengthening statutory constraints like FISA545 and the War Powers Resolution.546 Law reviews brim with such proposals. But their stopgap approach has been tried repeatedly since the Trumanite network’s emergence. Its futility is now glaring. Why such efforts would be any more fruitful in the future is hard to understand. The Trumanites are committed to the rule of law and their sincerity is not in doubt, but the rule of law to which they are committed is largely devoid of meaningful constraints.547 Continued focus on legalist band-aids merely buttresses the illusion that the Madisonian institutions are alive and well—and with that illusion, an entire narrative premised on the assumption that it is merely a matter of identifying a solution and looking to the Madisonian institutions to effect it. That frame deflects attention from the underlying malady. What is needed, if Bagehot’s theory is correct, is a fundamental change in the very discourse within which U.S. national security policy is made. For the question is no longer: What should the government do? The questions now are: What should be done about the government? What can be done about the government? What are the responsibilities not of the government but of the people?

#### It is a unique turn --- Madisonians’ role is decreasing now which risks exposing the illusion of double government

Glennon, 14 --- Professor of International Law at Tufts (Michael, Harvard National Security Journal, “National Security and Double Government,” [http://harvardnsj.org/wp-content/uploads/2014/01/Glennon-Final.pdf)](http://harvardnsj.org/wp-content/uploads/2014/01/Glennon-Final.pdf%29))

E. Implications for the Future

The aim of this Article thus far has been to explain the continuity in U.S. national security policy. An all-too-plausible answer, this Article has suggested, lies in Bagehot’s concept of double government. Bagehot believed that double government could survive only so long as the general public remains sufficiently credulous to accept the superficial appearance of accountability, and only so long as the concealed and public elements of the government are able to mask their duality and thereby sustain public deference.501 As evidence of duality becomes plainer and public skepticism grows, however, Bagehot believed that the cone of governance will be “balanced on its point.”502 If “you push it ever so little, it will depart farther and farther from its position and fall to earth.”503

If Bagehot’s theory is correct, the United States now confronts a precarious situation. Maintaining the appearance that Madisonian institutions control the course of national security policy requires that those institutions play a large enough role in the decision-making process to maintain the illusion. But the Madisonians’ role is too visibly shrinking, and the Trumanites’ too visibly expanding, to maintain the plausible impression of Madisonian governance.504 For this reason and others, public confidence in the Madisonians has sunk to new lows.505 The Trumanites have resisted transparency far more successfully than have the Madisonians, with unsurprising results. The success of the whole dual institutional model depends upon the maintenance of public enchantment with the dignified/ Madisonian institutions. This requires allowing no daylight to spoil their magic,506 as Bagehot put it. An element of mystery must be preserved to excite public imagination. But transparency—driven hugely by modern internet technology, multiple informational sources, and social media— leaves little to the imagination. “The cure for admiring the House of Lords,” Bagehot observed, “was to go and look at it.”507 The public has gone and looked at Congress, the Supreme Court, and the President, and their standing in public opinion surveys is the result. Justices, senators, and presidents are not masters of the universe after all, the public has discovered. They are just like us. Enquiring minds may not have read enough of Foreign Affairs508 to assess the Trumanites’ national security polices, but they have read enough of People Magazine509 to know that the Madisonians are not who they pretend to be. While the public’s unfamiliarity with national security matters has no doubt hastened the Trumanites’ rise, too many people will soon be too savvy to be misled by the Madisonian veneer,510 and those people often are opinion leaders whose influence on public opinion is disproportionate to their numbers. There is no point in telling ghost stories, Holmes said, if people do not believe in ghosts.511

#### The executive always has the upper hand – rally around the leader effect

Rojas, 12 --- Associate Professor of Sociology at Indiana University (4/16/2012, Fabio, “rachel maddow will not bring peace,” <http://orgtheory.wordpress.com/2012/04/16/rachel-maddow-will-not-bring-peace/>)

Andrew Sullivan’s blog excerpted a passage from Rachel Maddow’s recent book. Understandably, Maddow’s book urges Congress to take a stand against war:

 When we go to war, we should raise taxes to pay for it. We should get rid of the secret military. The reserves should go back to being reserves. We should cut way back on the contractors and let troops peel their own potatoes. And above all, Congress should start throwing its weight around again…

I agree in principle, but disagree on practice. Rules and institutions that end war are ineffective for two reasons. First, if you really want war, you can always vote to have a new rule for war or to make an exception. Also, most rules have wiggle room in them, which makes it easy to wage war under other guises. Secondly, there’s a consistent “rally around the leader effect.” It is incredibly hard for anyone to oppose leaders during war time. Elected leaders are in a particularly weak position. Simply put, legislatures can’t be trusted to assert their restraining role in most cases.

#### The Obama administration has a stated preference for maintaining aggressive counterterror tactics – they ignore legal barriers

Scheuerman, 13 --- Professor of Poli Sci at Indiana University (Spring 2013, William E., Constitutional Commentary, “BOOK REVIEW: BARACK OBAMA'S WAR ON TERROR: POWER AND CONSTRAINT: THE ACCOUNTABLE PRESIDENCY AFTER 9/11,” 28 Const. Commentary 519))

Despite Obama's initial promise to close it down, Guantanamo Bay (GTMO) remains open and operative, albeit on a smaller scale (i.e., with only 167 detainees n12) than under Bush (pp. 11-12). Even if blame for this failure can by no means be placed solely or perhaps even chiefly at Obama's feet, he has followed Bush in endorsing indefinite detention for some suspected terrorists, many of whom will apparently remain in more-or-less permanent limbo at GTMO (pp. 12-13). Similarly, the Obama Administration reformed, but by no means abandoned, the system of military commissions inherited from the Bush Administration (p. 9). While the commissions now look quite different from the kangaroo courts initially sought by former Secretary of Defense Rumsfeld and others, in part because of some real procedural improvements (p. 187), the overall picture remains sobering: the Administration is still fighting off legal challenges to its attempt to give base commanders carte blanche authority over visits by legal counsel, along with discretion to decide how lawyers can use classified information they may glean from detainees they represent. n13

Again reminiscent of its forerunner, the Obama Administration continues to practice rendition, and though most evidence suggests that it has done so more humanely, the legal test it employs for determining where to send accused terrorists remains unchanged: only if there is more than a 50% chance of [\*524] detainees facing torture in a particular country are officials prohibited from sending them there (p. 15). Similarly, even though it has improved screening and procedural protections for detainees, the Administration also argues that basic habeas corpus protections do not cover those captured overseas (e.g., in Afghanistan) (p. 13). It seems as well to have appropriated the Bush Administration's hard line views on state secrecy, fighting no less aggressively in using it to dismiss lawsuits challenging its policies (e.g., in recent legal challenges to "targeted killings" of suspected terrorists) (pp. 13-14, 17-19). Like the Bush Administration, Obama's Administration insists on its right to engage in forum shopping: only when it is legally and politically convenient will suspected foreign-born terrorists get their day in civilian court (pp. 10-11). Moreover, as the New York Times editors recently commented, "any remaining hope for imposing meaningful accountability for torture and other abuses committed" under the Bush Administration has "for all practical purposes" now ended. n14 Even those CIA interrogators who likely tortured prisoners to death, going well beyond even those suspect interrogation practices condoned by President Bush, will not be facing prosecution under Attorney General Eric Holder. n15

Last but by no means least, the Obama Administration has gone beyond anything President Bush attempted in one major area: he has dramatically ramped up the targeted killing of suspected terrorists abroad, even claiming legal authority to kill - and then proceeding to do so - a U.S. citizen, Anwar al-Aulaqi, and then turning to Bush-era legal doctrines to beat back a courtroom challenge from the ACLU (pp. 13-14, 18-19). As Newsweek journalist Daniel Klaidman shows in his aptly entitled Kill or Capture: The War on Terror and the Soul of the Obama Presidency, an insightful account of the Administration's internal battles about counterterrorism, targeted killings, preferably by means of drones, quickly became the Administration's favored device for combating terrorism for a mix of interlocking political and legal imperatives. n16 They allow the Administration to minimize unnecessary U.S. military casualties in a seemingly endless war on terror, while typically garnering strong public support and permitting Obama to accentuate his image as a strong leader tough on national [\*525] security issues. n17 Just as conveniently, they do not require capturing and detaining dangerous terrorists, which has become a political and legal morass given congressional hostility to trying foreign terrorists in ordinary courts as well as the Administration's own commitment to downsize Gitmo and other offshore detention centers. n18 Despite widespread condemnation from abroad, the Administration continues to favor targeted killings as its weapon of choice in the war on terror. In fact, they have even garnered the unlikely imprimatur of one of the Administration's most prominent liberal jurists, State Department Legal Advisor and Yale Law School professor Harold Koh, who interprets them - when targets are properly selected - as legitimized by the U.S. declaration of war against Al-Qaeda. n19 Nonetheless, they remain controversial for one straightforward reason: President Obama has taken it upon himself to serve as judge, jury, and executioner even in cases involving U.S. citizens.

Civil libertarians may be exaggerating somewhat when they dub Obama's war on terror "Bush Lite." Nonetheless, a powerful case can be made that Obama has in fact mostly followed in his predecessor's footsteps, and that at least in one arena (i.e., targeted killings) he has in fact radicalized employment of one suspect, controversial Bush-era antiterrorism tool.

### Their Stuff

#### The president and DOD have a pressing interest in cyber attacks and attribution is impossible

Stephen BENAVIDES, policy analyst and union organizer, Truthout, 13 [July 30, 2013, “The Coming Cyber-Cold War: US Pioneering Online Attacks,” http://truth-out.org/news/item/17714-the-coming-cyber-cold-war]

The development and expansion of cyber-security, and hence cyber-warfare - equivalent to an arms race - has been in the works for decades and is now a prime objective for the executive branch and the Department of Defense. As the US prepares to deploy weaponized malware and viruses against its enemies, it is forcing those enemies to respond in kind. We are witnessing the first stage of an America-led arms race that undoubtedly will result in a cyber cold war.

Before Edward Snowden released details about foreign and domestic spying program PRISM, low-level and continuous cyber espionage was well underway. As far back as 2002, a three-year attack accessed and downloaded 10 to 20 terabytes of sensitive information from the Department of Defense in an operation titled "Titan Rain." The culprit - whether an individual or a state - was never identified. In 2009, there were cyber attacks on the US water and sewage systems, as well as the national electrical grid. China and Russia are alleged to have accessed secure systems and mapped out the entire infrastructure of the country. More recently, the Obama administration was forced to admit that it had deployed Stuxnet against Iranian nuclear centrifuges and that the NSA attacked Tsinghua University, a research facility in China.

## Case

### AT: Heg

#### view the impact debate from the lens of the dispossessed—conventional moral theory operates on a false assumption of equal opportunity, the negs demand for justice precedes other discussion of competing moral theories

Mills 97 – Associate Prof of Philosophy @ U Illinois, Chicago

(Charles-; The Racial Contract)

The Racial Contract has always been recognized by nonwhites as the real determinant of (most) white moral/political practice and thus as the real moral/political agreement to be challenged . If the epistemology of the signatories, the agents, of the Racial Contract requires evasion and denial of the realities of race, the epistemology of the victims, the objects, of the Racial Contract is, unsurprisingly, focused on these realities themselves. (So there is a reciprocal relationship, the Racial Contract tracking white moral/political consciousness, the reaction to the Racial Contract tracking nonwhite moral/political consciousness and stimulating a puzzled investigation of that white moral/political consciousness .) The term "standpoint theory" is now routinely used to signify the notion that in understanding the workings of a system of oppression, a perspective from the bottom up is more likely to be accurate than one from the top down. What is involved here, then, is a "racial" version of standpoint theory, a perspectival cognitive advantage that is grounded in the phenomenological experience of the disjuncture between official (white) reality and actual (nonwhite) experience, the "double-consciousness" of which W. E . B . Du Bois spoke .48 This differential racial experience generates an alternative moral and political perception of social reality which is encapsulated in the insight from the black American folk tradition I have used as the epigraph of this book : the central realization, summing up the Racial Contract, that "when white people say Justice,' they mean 'Just Us."' Nonwhites have always (at least in first encounters) been bemused or astonished by the invisibility of the Racial Contract to whites, the fact that whites have routinely talked in universalist terms even when it has been quite clear that the scope has really been limited to themselves . Correspondingly, nonwhites, with no vested material or psychic interest in the Racial Contract-objects rather than subjects of it, viewing it from outside rather than inside, subpersons rather than persons-are (at least before ideological conditioning) able to see its terms quite clearly. Thus the hypocrisy of the racial polity is most transparent to its victims . The corollary is that nonwhite interest in white moral and political theory has necessarily been focused less on the details of the particular competing moral and political candidates (utilitarianism versus deontology versus natural rights theory; liberalism versus conservatism versus socialism) than in the unacknowledged Racial Contract that has usually framed their functioning. The variable that makes the most difference to the fate of nonwhites is not the fine- or even coarse-grained conceptual divergences of the different theories themselves (all have their Herrenvolk variants), but whether or not the subclause invoking the Racial Contract, thus putting the theory into Herrenvolk mode, has been activated . The details of the moral theories thus become less important than the metatheory, the Racial Contract, in which they are embedded. The crucial question is whether nonwhites are counted as full persons, part of the population covered by the moral operator, or not.

#### Racism must be rejected in every instance

Albert Memmi 2k, Professor Emeritus of Sociology @ U of Paris, Naiteire, Racism, Translated by Steve Martinot, p. 163-165

The struggle against racism will be long, difficult, without intermission, without remission, probably never achieved. Yet, for this very reason, it is a struggle to be undertaken without surcease and without concessions. One cannot be indulgent toward racism; one must not even let the monster in the house, especially not in a mask. To give it merely a foothold means to augment the bestial part in us and in other people, which is to diminish what is human. To accept the racist universe to the slightest degree is to endorse fear, injustice, and violence. It is to accept the persistence of the dark history in which we still largely live. it is to agree that the outsider will always be a possible victim (and which man is not himself an outsider relative to someone else?. Racism illustrates, in sum, the inevitable negativity of the condition of the dominated that is, it illuminates in a certain sense the entire human condition. The anti-racist struggle, difficult though it is, and always in question, is nevertheless one of the prologues to the ultimate passage from animosity to humanity. In that sense, we cannot fail to rise to the racist challenge. However, it remains true that one’s moral conduit only emerges from a choice: one has to want it. It is a choice among other choices, and always debatable in its foundations and its consequences. Let us say, broadly speaking, that the choice to conduct oneself morally is the condition for the establishment of a human order, for which racism is the very negation. This is almost a redundancy. One cannot found a moral order, let alone a legislative order, on racism, because racism signifies the exclusion of the other, and his or her subjection to violence and domination. From an ethical point of view, if one can deploy a little religious language, racism is ‘the truly capital sin. It is not an accident that almost all of humanity’s spiritual traditions counsels respect for the weak, for orphans, widows, or strangers. It is not just a question of theoretical morality and disinterested commandments. Such unanimity in the safeguarding of the other suggests the real utility of such sentiments. All things considered, we have an interest in banishing injustice, because injustice engenders violence and death. Of course, this is debatable. There are those who think that if one is strong enough, the assault on and oppression of others is permissible. Bur no one is ever sure of remaining the strongest. One day, perhaps, the roles will be reversed. All unjust society contains within itself the seeds of its own death. It is probably smarter to treat others with respect so that they treat you with respect. “Recall.” says the Bible, “that you were once a stranger in Egypt,” which means both that you ought to respect the stranger because you were a stranger yourself and that you risk becoming one again someday. It is an ethical and a practical appeal—indeed, it is a contract, however implicit it might be. In short, the refusal of racism is the condition for all theoretical and practical morality because, in the end, the ethical choice commands the political choice, a just society must be a society accepted by all. If this contractual principle is not accepted, then only conflict, violence, and destruction will be our lot. If it is accepted, we can hope someday to live in peace. True, it is a wager, but the stakes are irresistible.

## K

### 2NC Framework – Care of the Self

#### Everything we do, everything we read forms us as subjects as the world – social change cannot be effected unless there is a vocabulary to construct subjects that engage in a new way of knowing – the alt is a formation of new ethical subjects – the affirmative solidifies dominant structures and knowledges that actively prevent ethics

-necessary to create a new social vocabulary around issues to effect real change

-we are constantly being constructed as subjects by the experiences we have

-on an individual level, ethics is a processing of attuning your ways of knowing the world and relating to the world to be more compassionate and open

-the way our self exists is inseparable from our relationship to the world

-this breaks processes of solidifying existing ways of knowing and mainstream institutions – the affirmative is a step in a long, long process of normalization to make the self complicit with and accepting of violence and inequality – the act of criticism in our alternative is an act of interruption that ethically attunes the self to the hidden violence of dominant knowledges

- we construct the way we interact with the law with reference to this reality

Scott 9 – prof of philosophy @ Vanderbilt

(Charles, Journal of Medicine and Philosophy, 34: 350–367, Foucault, Genealogy, Ethics)

In Foucault’s analysis of the May 1968 uprising in France, he said that even though “things were coming apart” there did not “exist any vocabulary capable of expressing that process” (Foucault, 2000, 271). We could say on Foucault’s terms that there did not exist a way of knowing (a subject of knowledge) and the language and concepts suited for the complex event of France’s transformation. A momentous event happened without adequate “tools” for its recognition, analysis, and appropriation. Consequently, in the following dispersion of quarreling groups and political factions, the 1968 crisis did not at first become an effective discursive event that opened up a full range of apparent problems and transformations for formal knowledge. That would require a knowing subject that was turned away from the strongest discursive options, such as those of the current Humanists, Marxists, Maoists, French colonialists, and French cultural supremacists. So much was falling apart in France at the time that a subject of knowledge was needed that formed in the interconnecting French crises, a subject informed by marginal experiences in comparison to the experiences recognized by the dominant discourses, marginalized experiences like those of Algerian soldiers, French prisoners, people oppressed by French colonialism, people hammered down by Stalin’s communism or the Proletarian Cultural Revolution in China, and people in highly energized, non-French cultures: a subject that developed with the voices and experiences that were on the margins of the older and authoritative French way of life.¶ In spite of the stammering and stumbling in its aftermath, however, May, 1968 opened an opportunity for a new “vocabulary,” a new discourse, and a new ethos for recognizing and knowing. Its event made possible a transitional and transformative knowing subject whose relative freedom and lack of establishment constituted a major, constructive epistemic difference from the accepted discourses. Much more could be said on this issue, but my present, limited points are that in the context of Foucault’s thought, transformation of the knowing subject constitutes an ethical event; and ethics on an individual level takes place as people work on themselves to be able to change themselves enough to know differently and to transform what is evident about others (Foucault, 2000, 241–2).14 These two kinds of transformation take place in genealogical knowing as Foucault conceives and practices it.¶ Two different senses for ethics are at work here. One sense refers to ways of life that are constituted by discourses, institutions, and practices—by all manner of power formations that are not authored by singular individuals and that are ingrained in people’s lives inclusive of their judgment, knowledge, and codes of behavior. A society, of course, can have a variety of overlapping or competing ways of life, a variety of ethical environments, and changes in these environments would compose ethical changes in this broad sense of “ethical.” The knowledge that genealogy generates comprises a different discourse from many established ones and puts in question many aspects of Western society, especially around the topics of madness, sex, crime, normalcy, social/political suppression of people, and mechanisms of regulation and control. It challenges significant parts of our social environment, encourages deliberation and critique, and intends to make a differential impact on contemporary ways of life. In addition to his writing, Foucault was active in many causes designed to change political and social formations and to have a broad social impact. He played a leading role, for example, in support of Vietnamese boat people who were fleeing from persecution and being ignored by Western governments. He was active in prison reform movements. He spoke out against what he found to be unacceptable injustices in Poland and equally unacceptable silence in their regard in the West, against a Realpolitik that ignores suppression of people and their liberties in countries other than one’s own. He showed in multiple ways that passionate support of institutional transformation and of suppressed and suffering people can be carried out without Humanism or other forms of universalizing or totalizing discourse.¶ A second sense of ethics for Foucault means a work on the self by the self.15 He understood, for example, his writing (and his interviews) as processes of self-formation: “I haven’t written a single book that was not inspired, at least in part, by a direct personal experience,” an experience that he wants to understand better by finding a different vocabulary, changed combinations of concepts, and the mutations they bring by connecting with aspects of experience that are barely emerging at the borders of his awareness (Foucault, 2000, 244). His books, he says, compose experiences inclusive of his own “metamorphosis” as he writes them and comes to a transformed connection with their topics. He would also like for his books to provide readers with something akin to his experience, to bring us to our limits of sense where transformations can occur (Foucault, 2000, 244). The sense of ethics in this case is focused by individual experiences and the care they exercise in connecting with them. In care for themselves, they work at maintaining or altering their behavior and attitudes to appropriate themselves to their experiences.16 Foucault says that his books are “like invitations and public gestures” to join in the book’s process, a process that he finds transformative of aspects of contemporary life and potentially, should individuals join in, transformative of the way they understand and connect with themselves (Foucault, 2000, 245–6).¶ Care for self has a very long lineage that Foucault spent his last years investigating. Indeed, understanding himself without metaphysical help or universalized solutions was one aspect of his caring self-relation. He carried out a project, deeply rooted in a Western tradition that makes caring for oneself inseparable from the ways one knows oneself, the world, and others. In his own process, he finds repeated instances of change in his self-world relation as he experiences the impact of what he is coming to know at the borders of his knowledge and identity. When these boundary-experiences (he calls them limit-experiences) occur, he says, the clarity of some aspects of his identity dies in the impact of what he is coming to find. His affections and behavior often change. As an author he attempts to write into his books these very processes for the reader’s possible engagement.¶ If I find through one of his books, for example, a way of knowing that makes clear some of the dangers inherent in a well-established body of knowledge or a mainstream institution, I have an opportunity for assessing those dangers and choosing how I will connect with them and my experience of them. I might find that what I know and the way I know are violated by what Foucault’s work shows. I might find his approach and the knowledge that it offers highly questionable or irrelevant for my life. I might experience new questions, a need for change, an unexpected dissatisfaction with what I have been accepting as true and good. If Foucault’s works carry out their intention and if I read them carefully, I am engaged in an experience that he found transformative and that will make room for choices and problems that I can experience and that might bring me to an edge where what I know meets a limit and the possibility for an altered discourse and subjectivity. Coming in this way to an edge, a limit of the way I know and who I am in such knowing brings together the epistemic and personal aspects of ethical experience. The very act of caring for myself in this instance interrupts the subliminal processes of normalization and sets in motion another kind of dynamics as I come to the limits of my “authorized” experience and the emergence of a different kind of experience. I am caring for myself, impacting my own affections, values, and way of knowing. The dynamics of what Foucault calls biopower (the powerful complex of social forces that regulate human behavior by means of, for example, health care delivery, education, and moral legislation in both broad and “corpuscular” ways) are interrupted by a different dynamics that builds individual autonomy. Self-caring instead of the anonymous dynamics of normalization begins to form my self’s relation to itself. How will I appropriate the experience of limits and their transgression by emerging “voices”, realities, and intensities? Who shall I be in their impact? How will I present myself to myself and my environment should I affirm what is happening in the margins of my established identity?

#### This is a comparatively more productive strategy than the aff’s hubristic attempts to change the world – only our framework produces an ethical self that can create productive micropolitics

Chandler 13 – prof of IR @ Westminster

(The World of Attachment? The Post-humanist Challenge to Freedom and Necessity, Millenium: Journal of International Studies, 41(3), 516– 534)

The world of becoming thereby is an ontologically flat world without the traditional hierarchies of existence and a more shared conception of agency. For Bennett, therefore, ‘to begin to experience the relationship between persons and other materialities more horizontally, is to take a step toward a more ecological sensibility’.78 Here there is room for human agency but this agency involves a deeper understanding of and receptivity to the world of objects and object relations. Rather than the hubristic focus on transforming the external world, the ethico-political tasks are those of work on the self to erase hubristic liberal traces of subject-centric understandings, understood to merely create the dangers of existential resentment. Work on the self is the only route to changing the world. As Connolly states: ‘To embrace without deep resentment a world of becoming is to work to “become who you are”, so that the word “become” now modifies “are” more than the other way around.’ Becoming who you are involves the ‘microtactics of the self’, and work on the self can then extend into ‘micropolitics’ of more conscious and reflective choices and decisions and lifestyle choices leading to potentially higher levels of ethical self-reflectivity and responsibility. Bennett argues that against the ‘narcissism’ of anthropomorphic understandings of domination of the external world, we need ‘some tactics for cultivating the experience of our selves as vibrant matter’. Rather than hubristically imagining that we can shape the world we live in, Bennett argues that: ‘Perhaps the ethical responsibility of an individual human now resides in one’s response to the assemblages in which one finds oneself participating. Such ethical tactics include reflecting more on our relationship to what we eat and considering the agentic powers of what we consume and enter into an assemblage with. In doing so, if ‘an image of inert matter helps animate our current practice of aggressively wasteful and planet-endangering consumption, then a materiality experienced as a lively force with agentic capacity could animate a more ecologically sustainable public’. For new materialists, the object to be changed or transformed is the human – the human mindset. By changing the way we think about the world and the way we relate to it by including broader, more non-human or inorganic matter in our considerations, we will have overcome our modernist ‘attachment disorders’ and have more ethically aware approaches to our planet. In cultivating these new ethical sensibilities, the human can be remade with a new self and a ‘new self-interest’.

### AT: No Prior ?

#### causal linear IR predictions are inherently incomplete – epistemic uncertainty is the defining principle of international politics

Hendrick 9 – PhD from Bradford U, contributor to Oxford University Press

(Diane, “Complexity Theory and Conflict Transformation: An Exploration of Potential and Implications”, http://www.brad.ac.uk/acad/confres/papers/pdfs/CCR17.pdf)

In international relations Neil E. Harrison makes the case for the value of complexity theory given the unpredictability of events in world politics that has confounded expectations based on existing theories. While there are various explanations proffered for this situation, Harrison sees the tendency of current theories of world politics to work with models of the social world that present it, for analytical purposes, as a simple system as fundamentally misleading. In contrast to realism, that sees political behaviour being driven by essential human characteristics within fixed structures, complexity theory sees world politics as a self- organising complex system in which macroproperties emerge from microinteractions. It is precisely the interactions among interdependent but individual agents within the system that account for the surprising events that defy prediction through the simple models used at the moment. Harrison thus takes the state as a system that is not closed but open to other natural and social systems: “defined as a political system, it is open to technological, cultural and economic systems that influence political choices and processes.” (Harrison, 2006 p. 8) The state is also influenced by other states and by numerous transboundary interactions between major corporations, NGOs, terrorist groups, etc. In such complex systems it is not possible to trace linear causal links: “Despite occasional attempts to bring in domestic politics the state is usually modelled as a unit with exogenous identity and objective interests. This greatly reduces the range of possible causal explanations for any perceived social event, simplifying causal analysis and hypothesis generation and testing.” (Harrison, 2006 p. 11) It is a disconcerting fact that outcomes may have multiple causes and that in different contexts, historically or spatially, the same cause may lead to different outcomes. This cannot be captured by the over-simplified models of international systems. Given the multiple, mutually influencing interactions within social systems it is necessary to look to the evolution of the system rather than to individual events when seeking the causes of observed effects. Complexity theory focuses on processes and relations between components, or in the case of social systems, agents, rather than the components themselves. In a similar criticism to that of Walby, Harrison points to the tendency of theories in international relations to focus on one level of analysis and to present competing theories based on these. Where systems are theorised, they are limited by being presented as nested. Harrison notes that the impact of positive feedback in systems has been acknowledged: “ ‘(I)ntra-national and inter-national events all impinge on one another in a cyclical and ongoing process within which the self-aggravating propensities frequently exceed the self-correcting ones by an unacceptably large amount’ (Singer 1970, 165) thus national elites use rhetoric for domestic political consumption that can incite potential enemies, the public and military desire the psychological comfort of discernible superiority, media amplify inter-nation conflicts, and the benefits of participation in the ideological mainstream preserve the distribution of power and inhibit changes in the historic patterns that transform inevitable conflicts into costly rivalries.” (Harrison, 2006 p. 28) While Walby refers to examples of the importance of the notion of path dependence with reference to differences in development between countries, Harrison sees its relevance at the level of the international state system. Thus development through time is not wholly random and there are limits or constraints created by the prior development of the system that restrict the possible options for change. In this way the international system may change its structure without becoming another system and here Harrison brings the example of the Cold War. While it is true that the Cold War was produced by historical interactions, it is still not possible to claim that it was an inevitable effect of historical causes. The myriad microinteractions that occurred introduce unpredictability into development, especially given the above-mentioned possibility of positive feedback. Harrison is optimistic with regard to the gains from the application of complexity theory to world politics in theoretical but also in policy terms: “This ontological shift from simple to complex systems opens new paths to knowledge and understanding yet incorporates much current knowledge; it validates novel research methods; and theories founded in this approach will generate radically different solutions to policy problems.” (Harrison, 2006 p. 2)

### 2nc at: perm

#### 2. doubt must come first, the affirmative’s footnoting of the alternative doesn’t solve and obscures moral analysis

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(Michael, International Relations 27(4), The Tragedy of Justified War)

I cannot provide an extensive account of binary thinking and lacking ambiguity in contemporary just war theory here. A few examples, picked from a pool of many more contemporary theorists whose works one could draw on, may suffice to make the relevant point. It should become apparent that most of the thinkers I refer to do recognize the ambiguity of moral justifications for war.28 However, they do not place this recognition at the centre of their moral arguments about war. That is, they somehow fail to engage with the tragedy of justified war in the broad sense. There is some fragmented talk of tragedies, moral dilemmas, dirty hands and rights infringements, but no critical engagement with the kind of thinking in just war theory that is predominantly – or in some cases even exclusively – concerned with drawing binary distinctions between just and unjust wars and military operations. The core question raised in the literature is whether or not one may wage war, and whether or not certain military operations may be undertaken; once the answer has been found, the moral case is closed – particularly, but not exclusively – in just war accounts that embrace the kind of style described by Brown.29 This style, of course, is not Michael Walzer’s. When contemporary analytical philosophers deride his contributions to just war theory as some kind of ‘story-telling’,30 devoid of conceptual clarity, argumentative rigour and methodological finesse, it is perhaps sentences like the following one that critics have in mind: ‘[T]he theory of war, when it is fully under- stood, poses a dilemma, which every theorist ... must resolve as best as he can’.31 Walzer’s thinking nonetheless falls prey to the kind of binary thinking that analytical theorists would take to new heights a couple of decades later on. While Walzer famously defends the conceptual plausibility of the notion of dirty hands, according to which especially politicians must sometimes do wrong to do right, he introduces this concept into his theory of ‘just and unjust wars’ only in his account of ‘supreme emergencies’. Here, political communities cannot help but engage in the intentional killing of innocent people: [D]irty hands aren’t permissible (or necessary) when anything less than the ongoingness of the community is at stake, or when the danger we face is anything less than communal death. In most wars, the issue never arises; there are no supreme emergencies; the normal defense of rights holds unquestioned sway.32

#### 4. mutually exclusive – the quest for negative peace trades off with positive peace through pacifism

Pankhurst 3

(Donna-, May 1, Development in Practice, “The 'sex war' and other wars: towards a feminist approach to peace building”, Vol. 13 # 2&3, Infomaworld; Jacob)

Turning to the meanings of the term ‘peace’, Galtung’s (1985) conception of negative peace has come into widespread use, and is probably the most common meaning given to the word, i.e. the end or absence of widespread violent conflict associated with war. A ‘peaceful’ society in this sense may therefore include a society in which social violence (against women, for instance) and/or structural violence (in situations of extreme inequality, for example) are prevalent. Moreover, this limited ‘peace goal’, of an absence of specific forms of violence associated with war, can and often does lead to a strategy in which all other goals become secondary. The absence of analysis of the deeper (social) causes of violence also paves the way for peace agreements that leave major causes of violent conflict completely unresolved. Negative peace may therefore be achieved by accepting a worse state of affairs than that which motivated the outburst of violence in the first place, for the sake of (perhaps short-term) ending organised violence. Galtung’s alternative vision, that of positive peace, requires not only that all types of violence be minimal or non-existent, but also that the major potential causes of future conflict be removed. In other words, major conflicts of interest, as well as their violent manifestation, need to be resolved. Positive peace encompasses an ideal of how society should be, but the details of such a vision often remain implicit, and are rarely discussed. Some ideal characteristics of a society experiencing positive peace would include: an active and egalitarian civil society; inclusive democratic political structures and processes; and open and accountable government. Working towards these objectives opens up the field of peace building far more widely, to include the promotion and encouragement of new forms of citizenship and political participation to develop active democracies. It also opens up the fundamental question of how an economy is to be managed, with what kind of state intervention, and in whose interests. But more often than not discussion of these important issues tends to be closed off, for the sake of ‘ending the violence’, leaving major causes of violence and war unresolved—including not only economic inequalities, but also major social divisions and the social celebration of violent masculinities.

#### the will of the people expressed through a peace movement is the most effective method for social change against militarism – the nation-state system is broken and corrupt – since the aff doesn’t change that, any risk they shut out the peace movement means you vote negative

Moore 5 – fellow @ Harvard’s Berkman Center

(John, Extreme Democracy, The Second Superpower Rears its Beautiful Head, p. 37-40)

As the United States government becomes more belligerent in using its power in the world, many people are longing for a “second superpower” that can keep the US in check. Indeed, many people desire a superpower that speaks for the interests of planetary society, for long-term well-being, and that encourages broad participation in the democratic process. Where can the world find such a second superpower? No nation or group of nations seems able to play this role, although the European Union sometimes seeks to, working in concert with a variety of institutions in the field of international law, including the United Nations. But even the common might of the European nations is barely a match for the current power of the United States.¶ There is an emerging second superpower, but it is not a nation. Instead, it is a new form of international player, constituted by the “will of the people” in a global social movement. The beautiful but deeply agitated face of this second superpower is the worldwide peace campaign, but the body of the movement is made up of millions of people concerned with a broad agenda that includes social development, environmentalism, health, and human rights. This movement has a surprisingly agile and muscular body of citizen activists who identify their interests with world society as a whole—and who recognize that at a fundamental level we are all one. These are people who are attempting to take into account the needs and dreams of all 6.3 billion people in the world—and not just the members of one or another nation. Consider the members of Amnesty International who write letters on behalf of prisoners of conscience, and the millions of Americans who are participating in email actions against the war in Iraq. Or the physicians who contribute their time to Doctors Without Borders/Medecins Sans Frontieres. ¶ While some of the leaders have become highly visible, what is perhaps most interesting about this global movement is that it is not really directed by visible leaders, but, as we will see, by the collective, emergent action of its millions of participants. Surveys suggest that at least 30 million people in the United States identify themselves this way—approximately 10% of the US population. The percentage in Europe is undoubtedly higher. The global membership in Asia, South America, Africa and India, while much lower in percentage of the total population, is growing quickly with the spread of the Internet. What makes these numbers important is the new cyberspace- enabled interconnection among the members. This body has a beautiful mind. Web connections enable a kind of near-instantaneous, mass improvisation of activist initiatives. For example, the political activist group Moveon.org, which specializes in rapid response campaigns, has an email list of more than two million members. During the 2002 elections, Moveon.org raised more than $700,000 in a few days for a candidate’s campaign for the US senate. It has raised thousands of dollars for media ads for peace—and it is now amassing a worldwide network of media activists dedicated to keeping the mass media honest by identifying bias and confronting local broadcasters.¶ New forms of communication and commentary are being invented continuously. Slashdot and other news sites present high quality peer- reviewed commentary by involving large numbers of members of the web community in recommending and rating items. Text messaging on mobile phones, or texting, is now the medium of choice for communicating with thousands of demonstrators simultaneously during mass protests. Instant messaging turns out to be one of the most popular methods for staying connected in the developing world, because it requires only a bit of bandwidth, and provides an intimate sense of connection across time and space. The current enthusiasm for blogging is changing the way that people relate to publication, as it allows real-time dialogue about world events as bloggers log in daily to share their insights. Meta-blogging sites crawl across thousands of blogs, identifying popular links, noting emergent topics, and providing an instantaneous summary of the global consciousness of the second superpower. ¶ The Internet and other interactive media continue to penetrate more and more deeply all world society, and provide a means for instantaneous personal dialogue and communication across the globe. The collective power of texting, blogging, instant messaging, and email across millions of actors cannot be overestimated. Like a mind constituted of millions of inter- networked neurons, the social movement is capable of astonishingly rapid and sometimes subtle community consciousness and action. **¶** Thus the new superpower demonstrates a new form of “emergent democracy” that differs from the participative democracy of the US government. Where political participation in the United States is exercised mainly through rare exercises of voting, participation in the second superpower movement occurs continuously through participation in a variety of web-enabled initiatives. And where deliberation in the first superpower is done primarily by a few elected or appointed officials, deliberation in the second superpower is done by each individual—making sense of events, communicating with others, and deciding whether and how to join in community actions. Finally, where participation in democracy in the first superpower feels remote to most citizens, the emergent democracy of the second superpower is alive with touching and being touched by each other, as the community works to create wisdom and to take action.¶ How does the second superpower take action? Not from the top, but from the bottom. That is, it is the strength of the US government that it can centrally collect taxes, and then spend, for example, $1.2 billion on 1,200 cruise missiles in the first day of the war against Iraq. By contrast, it is the strength of the second superpower that it could mobilize hundreds of small groups of activists to shut down city centers across the United States on that same first day of the war. And that millions of citizens worldwide would take to their streets to rally. The symbol of the first superpower is the eagle—an awesome predator that rules from the skies, preying on mice and small animals. Perhaps the best symbol for the second superpower would be a community of ants. Ants rule from below. And while I may be awed seeing eagles in flight, when ants invade my kitchen they command my attention.¶ In the same sense as the ants, the continual distributed action of the members of the second superpower can, I believe, be expected to eventually prevail. Distributed mass behavior, expressed in rallying, in voting, in picketing, in exposing corruption, and in purchases from particular companies, all have a profound effect on the nature of future society. More effect, I would argue, than the devastating but unsustainable effect of bombs and other forms of coercion.**¶** Deliberation in the first superpower is relatively formal—dictated by the US constitution and by years of legislation, adjudicating, and precedent. The realpolitik of decision making in the first superpower—as opposed to what is taught in civics class—centers around lobbying and campaign contributions by moneyed special interests—big oil, the military-industrial complex, big agriculture, and big drugs—to mention only a few. In many cases, what are acted upon are issues for which some group is willing to spend lavishly. By contrast, it is difficult in the US government system to champion policy goals that have broad, long-term value for many citizens, such as environment, poverty reduction and third world development, women’s rights, human rights, health care for all. By contrast, these are precisely the issues to which the second superpower tends to address its attention.**¶** Deliberation in the second superpower is evolving rapidly in both cultural and technological terms. It is difficult to know its present state, and impossible to see its future. But one can say certain things. It is stunning how quickly the community can act—especially when compared to government systems. The Internet, in combination with traditional press and television and radio media, creates a kind of “media space” of global dialogue. Ideas arise in the global media space. Some of them catch hold and are disseminated widely. Their dissemination, like the beat of dance music spreading across a sea of dancers, becomes a pattern across the community. Some members of the community study these patterns, and write about some of them. This has the effect of both amplifying the patterns and facilitating community reflection on the topics highlighted. A new form of deliberation happens. A variety of what we might call “action agents” sits figuratively astride the community, with mechanisms designed to turn a given social movement into specific kinds of action in the world. For example, fundraisers send out mass appeals, with direct mail or the Internet, and if they are tapping into a live issue, they can raise money very quickly. This money in turn can be used to support activities consistent with an emerging mission.

### Alt

#### The way we justify war has a bearing on how we conduct it – insisting upon ambiguity as a foundational principle of whether we can go to war shakes up our confidence by taking the perspective of the victims, which forces us to stop regarding war as a reasonable option to expose the ways in which structural violence creates the conditions where wars become necessary in the first place

perspective of the victim

structural violence is the only reason why ‘necessary’ war situations arise

unshaken confidence / certainty / rigid distinctions bad

stop regarding war as a reasonably normal feature of the moral world

* The way we justify war has a bearing on the way we conduct it

Neu 14 – prof @ u of brighton

(Michael, The supreme emergency of war: a critique of Walzer, Journal of International Political Theory 10:3)

If the rights of innocents are as crucially important as Walzer thinks they are, he has good reason to stop believing in the philosophical miracle induced by double intention: the miracle that there is nothing wrong with collateral damage if only our double effect thinking is stringent enough; the miracle that, other things equal, the integrity of one person’s right not to be killed completely depends on the integrity of some other person’s set of intentions. This is so because, for a non-utilitarian, double effect thinking can never be quite stringent enough, at least not if the desired result is that we say right or wrong, not right and wrong. There will always be a leap-of-faith element in double effect thinking in war, which, in Walzer’s account, the requirement of due care is meant to give us confidence in. Walzer presents us with a moral problem, namely, the insufficiency of conventional double effect thinking, and a firm solution, namely, the introduction of due care in addition to already established double effect criteria. With this solution at hand, he comes to regard the right of the innocent not to be killed with foresight as completely cancelled, rather than merely overridden. While, within his own rights-based framework, Walzer could have applied his dirty hands conception to non-emergency warfare, he chose not to. In his moral world, the killing of innocents with foresight is either right or wrong. And whenever it is right, there is really nothing wrong with it; it is all right. Walzer’s confidence on this matter is unshaken, allowing him to state (2006a: 135) that ‘[a] legitimate act of war is one that does not violate the rights of the people against whom it is directed’.**¶** Individuals who have the bad fortune of being killed in accordance with Walzer’s stringent account of double effect do not belong to the category of people whose rights are being violated. Walzer appears to be so deeply entrenched within a certain interpretation of double effect that the conceptual possibility of telling his just and unjust war story in his own language of dirty hands does not even seem to have occurred to him. At least he does not find it necessary to explicitly state why the rights of the innocent not to be killed with foresight are completely cancelled, rather than merely overridden. This is peculiar for a thinker who insists that ‘[i]ndividual rights (to life and liberty) underlie the most important judgments that we make about war’; that ‘[a]t every point, the judgments we make (the lies we tell) are best accounted for if we regard life and liberty as some- thing like absolute values’; and that ‘no one can be threatened with war or warred against, unless through some act of his own he has surrendered or lost his rights’ (Walzer, 2006a: 54, xxiv, 135). It would be cynical to suggest that toddlers who are literally bombed into pieces by justified warriors are not ‘warred against’. After all, Walzer himself acknowledges that it does not make any difference to the victim whether they are warred against ‘directly’ or ‘indirectly’. It is not at all clear why a double intention should make that difference.¶ If we take individual rights seriously, and if we shift our perspective from the justified warrior to the victim whose rights are being violated, we may come to judge that Walzer’s account of supreme emergencies is better suited to capture the deeply ambiguous nature of allegedly ‘regular’ warfare; better suited, at least, than the ordinary, strictly binary talk of just versus unjust. For the ordinary talk to make moral sense, the integrity of the innocent’s right not to be killed with foresight would have to depend entirely on certain features of the act of killing which are extrinsic to the right itself. These features are the nature of the moral goal that the killing agent pursues, its moral importance, the agent’s disposition towards the various morally relevant features of his acts and her willingness to take risks in order to avoid ‘collateral’ killing. That all these features are extrinsic to the right not to be killed with foresight points at the inevitable fragility of any moral argument according to which such killing can be justified nonetheless. Walzer, however, is only ready to concede fragility when defending the possibility of intentional killing:¶ [I]t is not usually said of individuals in domestic society that they necessarily will or that they morally can strike out at innocent people, even in the supreme emergency of self-defense. They can only attack their attackers. But communities, in emergencies, seem to have different and larger prerogatives. I am not sure I can account for the difference, without ascribing to communal life a kind of transcendence that I don’t believe it to have. (Walzer, 2006a: 254)¶ What Walzer fails to see is that his non-emergency account of justified warfare already includes precisely those elements that he is otherwise highly critical of, be it a utilitarian- ism of extremity or a kind of transcendence of communal life. These elements are cushioned by Walzer’s stringent account of double effect, of course, specifically his insistence on double intention. And yet, they remain sufficiently present to render implausible any rigid distinction between emergency and non-emergency warfare. To say that justified warfare is only right, not also wrong, and that only warfare which involves the intentional killing of innocent parties can be right and wrong at the same time, is to put into perspective the evil of knowingly killing the innocent. If it turns out to be morally ‘necessary’ for a political community to kill innocents with foresight, the community is already facing a supreme emergency. Its members cannot lean back, thinking: As long as we take due care and accept significant risks to ourselves (and as long as the other conditions of double effect are met), there is no reason for us to be morally agonised when going to war; our hands will remain clean and our souls unstained. Indeed, we would make some sort of category mistake if we felt remorse, rather than merely regret, about knowingly killing the innocent under such conditions.¶ If we come to think of a justified war situation as a supreme emergency, and if we accept Walzer’s insistence that we should be extremely careful not to persuade our- selves and others too easily of being caught in such a situation, then this may change the parameters of how we think morally about war. It will stop us from regarding war as a reasonably normal feature of the moral world, as something that can be unambiguously evaluated and divided into just and unjust acts – with a ready set of moral principles at hand. War, properly understood, takes us dangerously close to (or perhaps straight into) a place which is located ‘outside the proper realm of moral discourse and judgment’ (Nardin, 1983: 300). We should not allow widely accepted philosophical methods to detract from the magnitude of the moral scandal posed by ‘justified’ warfare, and from the wrongness of what happens in any war, including wars waged for plausible moral reasons. But this is precisely what happens when we formulate a theory of just and unjust war.**¶** The argument I have presented here has, no doubt, pacifist undertones. If a supreme emergency account of justified war is correct, it will be extremely hard to ‘justify’ wars waged in communal self-defence, and it will also be extremely hard to identify wars in the history of humankind that were ‘justified’. My argument has rather ironic implications for contingent pacifists, then. On the one hand, they would be naturally critical of Walzer’s supreme emergency exemption; on the other, they might be inclined to sympathise with my critique of standard just war theory. The notion of supreme emergency, if attributed to regular warfare, might stop the disturbing ‘routinization’ (Walzer, 2004: 49) of moral warfare. A war against Saddam Hussein’s regime in 2003, for example, would not have occurred if the relevant actors had understood the ‘justifying’ conditions of war in accordance with some plausible interpretation of the tight curbs that Walzer places on intentional killing. And just war theorists would have condemned the war – as, ironically, allegedly war-prone political realists did at the time (Art et al., 2002) – unanimously and uncompromisingly, rather than with a certain willingness to open-mindedly discuss the matter. Although Walzer (2004: 151) concluded at the time that ‘[t]he administration’s war is neither just nor necessary’, he also wrote, tellingly, that ‘the threat that Iraq posed could have been met with something less than the war we are now fighting. And a war fought before its time is not a just war’ (Walzer, 2004: 161, emphasis added). Another just war theorist, Brian Orend (2006: 82), pointed out that ‘the 2003 Iraq attack was much better justified not as an anticipatory attack of pre-emptive self-defence but, rather, as an act of humanitarian intervention’. If the argument presented in this essay is plausible, it should not even have occurred to these thinkers that the war might have been ‘justified’, or that it might have been on the brink of becoming ‘justified’. This is true even if we grant a certain degree of actual uncertainty about the existence of weapons of mass destruction in Saddam’s hands – assuming that countering the threat posed by Saddam’s regime was the authentic rationale for the 2003 invasion of Iraq, which, of course, was not (which, of course, just war theorists would be unlikely to realise due to their lack of critical interest in actual political affairs).¶ War, the bombing of toddlers into pieces, is not some neutral instrument, one that it is either right to use or not; it is, rather, a malum in se [an evil in itself]. Whatever else war might (sometimes) be from a moral point of view, it is also always wrong, just like the intentional killing in Walzer’s supreme emergency scenario is also always wrong. I concede that not waging war may sometimes result in a moral disaster of unspeakable proportion – take the example of Rwanda – but I insist that waging war always is a disaster of unspeakable proportion, a disaster whose ‘necessity’ ought to have been prevented from arising in the first place: through more careful political decision-making and a higher degree of attentiveness to the historical and structural conditions of violence in the world, including structural questions (and including the question of who benefits from the structures that are currently in place, and who is oppressed by them). It does not seem to me that the moral disastrousness of war, as well as the stringency of the moral requirement to pre- vent ‘justified war situations’ from arising in the first place, has been recognised by Walzer and his analytic successors. Theorists need to stop talking about ‘just’ wars; they need to stop taking for granted that the word ‘justified’ in ‘justified war’ has a fairly unproblematic and straightforward meaning; and they need to stop being quite as oblivious to what is actually going on in the moralistic world of politics. It is about time for just war theorists – why not unjust war theorists, by the way? – to become critical war theorists.

### Impact Overview

#### Structural violence is the proximate cause of all war- creates priming that psychologically structures escalation

\*\*Answers no root cause- because there is no root cause we must be attentative to structural inequality of all kinds because it primes people for broader violence- our impact is about the *scale* of violence and the *disproportionate* *relationship* between that scale and warfare, not that one form of social exclusion comes first

Scheper-Hughes and Bourgois ‘4

(Prof of Anthropology @ Cal-Berkely; Prof of Anthropology @ UPenn)

(Nancy and Philippe, Introduction: Making Sense of Violence, in Violence in War and Peace, pg. 19-22)

This large and at first sight “messy” Part VII is central to this anthology’s thesis. It encompasses everything from the routinized, bureaucratized, and utterly banal violence of children dying of hunger and maternal despair in Northeast Brazil (Scheper-Hughes, Chapter 33) to elderly African Americans dying of heat stroke in Mayor Daly’s version of US apartheid in Chicago’s South Side (Klinenberg, Chapter 38) to the racialized class hatred expressed by British Victorians in their olfactory disgust of the “smelly” working classes (Orwell, Chapter 36). In these readings violence is located in the symbolic and social structures that overdetermine and allow the criminalized drug addictions, interpersonal bloodshed, and racially patterned incarcerations that characterize the US “inner city” to be normalized (Bourgois, Chapter 37 and Wacquant, Chapter 39). Violence also takes the form of class, racial, political self-hatred and adolescent self-destruction (Quesada, Chapter 35), as well as of useless (i.e. preventable), rawly embodied physical suffering, and death (Farmer, Chapter 34). Absolutely central to our approach is a blurring of categories and distinctions between wartime and peacetime violence. Close attention to the “little” violences produced in the structures, habituses, and mentalites of everyday life shifts our attention to pathologies of class, race, and gender inequalities. More important, it interrupts the voyeuristic tendencies of “violence studies” that risk publicly humiliating the powerless who are often forced into complicity with social and individual pathologies of power because suffering is often a solvent of human integrity and dignity. Thus, in this anthology we are positing a violence continuum comprised of a multitude of “small wars and invisible genocides” (see also Scheper- Hughes 1996; 1997; 2000b) conducted in the normative social spaces of public schools, clinics, emergency rooms, hospital wards, nursing homes, courtrooms, public registry offices, prisons, detention centers, and public morgues. The violence continuum also refers to the ease with which humans are capable of reducing the socially vulnerable into expendable nonpersons and assuming the license - even the duty - to kill, maim, or soul-murder. We realize that in referring to a violence and a genocide continuum we are flying in the face of a tradition of genocide studies that argues for the absolute uniqueness of the Jewish Holocaust and for vigilance with respect to restricted purist use of the term genocide itself (see Kuper 1985; Chaulk 1999; Fein 1990; Chorbajian 1999). But we hold an opposing and alternative view that, to the contrary, it is absolutely necessary to make just such existential leaps in purposefully linking violent acts in normal times to those of abnormal times. Hence the title of our volume: Violence in War and in Peace. If (as we concede) there is a moral risk in overextending the concept of “genocide” into spaces and corners of everyday life where we might not ordinarily think to find it (and there is), an even greater risk lies in failing to sensitize ourselves, in misrecognizing protogenocidal practices and sentiments daily enacted as normative behavior by “ordinary” good-enough citizens. Peacetime crimes, such as prison construction sold as economic development to impoverished communities in the mountains and deserts of California, or the evolution of the criminal industrial complex into the latest peculiar institution for managing race relations in the United States (Waquant, Chapter 39), constitute the “small wars and invisible genocides” to which we refer. This applies to African American and Latino youth mortality statistics in Oakland, California, Baltimore, Washington DC, and New York City. These are “invisible” genocides not because they are secreted away or hidden from view, but quite the opposite. As Wittgenstein observed, the things that are hardest to perceive are those which are right before our eyes and therefore taken for granted. In this regard, Bourdieu’s partial and unfinished theory of violence (see Chapters 32 and 42) as well as his concept of misrecognition is crucial to our task. By including the normative everyday forms of violence hidden in the minutiae of “normal” social practices - in the architecture of homes, in gender relations, in communal work, in the exchange of gifts, and so forth - Bourdieu forces us to reconsider the broader meanings and status of violence, especially the links between the violence of everyday life and explicit political terror and state repression, Similarly, Basaglia’s notion of “peacetime crimes” - crimini di pace - imagines a direct relationship between wartime and peacetime violence. Peacetime crimes suggests the possibility that war crimes are merely ordinary, everyday crimes of public consent applied systematically and dramatically in the extreme context of war. Consider the parallel uses of rape during peacetime and wartime, or the family resemblances between the legalized violence of US immigration and naturalization border raids on “illegal aliens” versus the US government- engineered genocide in 1938, known as the Cherokee “Trail of Tears.” Peacetime crimes suggests that everyday forms of state violence make a certain kind of domestic peace possible. Internal “stability” is purchased with the currency of peacetime crimes, many of which take the form of professionally applied “strangle-holds.” Everyday forms of state violence during peacetime make a certain kind of domestic “peace” possible. It is an easy-to-identify peacetime crime that is usually maintained as a public secret by the government and by a scared or apathetic populace. Most subtly, but no less politically or structurally, the phenomenal growth in the United States of a new military, postindustrial prison industrial complex has taken place in the absence of broad-based opposition, let alone collective acts of civil disobedience. The public consensus is based primarily on a new mobilization of an old fear of the mob, the mugger, the rapist, the Black man, the undeserving poor. How many public executions of mentally deficient prisoners in the United States are needed to make life feel more secure for the affluent? What can it possibly mean when incarceration becomes the “normative” socializing experience for ethnic minority youth in a society, i.e., over 33 percent of young African American men (Prison Watch 2002). In the end it is essential that we recognize the existence of a genocidal capacity among otherwise good-enough humans and that we need to exercise a defensive hypervigilance to the less dramatic, permitted, and even rewarded everyday acts of violence that render participation in genocidal acts and policies possible (under adverse political or economic conditions), perhaps more easily than we would like to recognize. Under the violence continuum we include, therefore, all expressions of radical social exclusion, dehumanization, depersonal- ization, pseudospeciation, and reification which normalize atrocious behavior and violence toward others. A constant self-mobilization for alarm, a state of constant hyperarousal is, perhaps, a reasonable response to Benjamin’s view of late modern history as a chronic “state of emergency” (Taussig, Chapter 31). We are trying to recover here the classic anagogic thinking that enabled Erving Goffman, Jules Henry, C. Wright Mills, and Franco Basaglia among other mid-twentieth-century radically critical thinkers, to perceive the symbolic and structural relations, i.e., between inmates and patients, between concentration camps, prisons, mental hospitals, nursing homes, and other “total institutions.” Making that decisive move to recognize the continuum of violence allows us to see the capacity and the willingness - if not enthusiasm - of ordinary people, the practical technicians of the social consensus, to enforce genocidal-like crimes against categories of rubbish people. There is no primary impulse out of which mass violence and genocide are born, it is ingrained in the common sense of everyday social life. The mad, the differently abled, the mentally vulnerable have often fallen into this category of the unworthy living, as have the very old and infirm, the sick-poor, and, of course, the despised racial, religious, sexual, and ethnic groups of the moment. Erik Erikson referred to “pseudo- speciation” as the human tendency to classify some individuals or social groups as less than fully human - a prerequisite to genocide and one that is carefully honed during the unremark- able peacetimes that precede the sudden, “seemingly unintelligible” outbreaks of mass violence. Collective denial and misrecognition are prerequisites for mass violence and genocide. But so are formal bureaucratic structures and professional roles. The practical technicians of everyday violence in the backlands of Northeast Brazil (Scheper-Hughes, Chapter 33), for example, include the clinic doctors who prescribe powerful tranquilizers to fretful and frightfully hungry babies, the Catholic priests who celebrate the death of “angel-babies,” and the municipal bureaucrats who dispense free baby coffins but no food to hungry families. Everyday violence encompasses the implicit, legitimate, and routinized forms of violence inherent in particular social, economic, and political formations. It is close to what Bourdieu (1977, 1996) means by “symbolic violence,” the violence that is often “nus-recognized” for something else, usually something good. Everyday violence is similar to what Taussig (1989) calls “terror as usual.” All these terms are meant to reveal a public secret - the hidden links between violence in war and violence in peace, and between war crimes and “peace-time crimes.” Bourdieu (1977) finds domination and violence in the least likely places - in courtship and marriage, in the exchange of gifts, in systems of classification, in style, art, and culinary taste- the various uses of culture. Violence, Bourdieu insists, is everywhere in social practice. It is misrecognized because its very everydayness and its familiarity render it invisible. Lacan identifies “rneconnaissance” as the prerequisite of the social. The exploitation of bachelor sons, robbing them of autonomy, independence, and progeny, within the structures of family farming in the European countryside that Bourdieu escaped is a case in point (Bourdieu, Chapter 42; see also Scheper-Hughes, 2000b; Favret-Saada, 1989). Following Gramsci, Foucault, Sartre, Arendt, and other modern theorists of power-vio- lence, Bourdieu treats direct aggression and physical violence as a crude, uneconomical mode of domination; it is less efficient and, according to Arendt (1969), it is certainly less legitimate. While power and symbolic domination are not to be equated with violence - and Arendt argues persuasively that violence is to be understood as a failure of power - violence, as we are presenting it here, is more than simply the expression of illegitimate physical force against a person or group of persons. Rather, we need to understand violence as encompassing all forms of “controlling processes” (Nader 1997b) that assault basic human freedoms and individual or collective survival. Our task is to recognize these gray zones of violence which are, by definition, not obvious. Once again, the point of bringing into the discourses on genocide everyday, normative experiences of reification, depersonalization, institutional confinement, and acceptable death is to help answer the question: What makes mass violence and genocide possible? In this volume we are suggesting that mass violence is part of a continuum, and that it is socially incremental and often experienced by perpetrators, collaborators, bystanders - and even by victims themselves - as expected, routine, even justified. The preparations for mass killing can be found in social sentiments and institutions from the family, to schools, churches, hospitals, and the military. They harbor the early “warning signs” (Charney 1991), the “priming” (as Hinton, ed., 2002 calls it), or the “genocidal continuum” (as we call it) that push social consensus toward devaluing certain forms of human life and lifeways from the refusal of social support and humane care to vulnerable “social parasites” (the nursing home elderly, “welfare queens,” undocumented immigrants, drug addicts) to the militarization of everyday life (super-maximum-security prisons, capital punishment; the technologies of heightened personal security, including the house gun and gated communities; and reversed feelings of victimization).

#### Prefer this impact – structural violence is invisible and exponential

Nixon 11

(Rob, Rachel Carson Professor of English, University of Wisconsin-Madison, Slow Violence and the Environmentalism of the Poor, pgs. 2-3)

Three primary concerns animate this book, chief among them my conviction that we urgently need to rethink-politically, imaginatively, and theoretically-what I call "slow violence." By slow violence I mean a violence that occurs gradually and out of sight, a violence of delayed destruction that is dispersed across time and space, an attritional violence that is typically not viewed as violence at all. Violence is customarily conceived as an event or action that is immediate in time, explosive and spectacular in space, and as erupting into instant sensational visibility. We need, I believe, to engage a different kind of violence, a violence that is neither spectacular nor instantaneous, but rather incremental and accretive, its calamitous repercussions playing out across a range of temporal scales. In so doing, we also need to engage the representational, narrative, and strategic challenges posed by the relative invisibility of slow violence. Climate change, the thawing cryosphere, toxic drift, biomagnification, deforestation, the radioactive aftermaths of wars, acidifying oceans, and a host of other slowly unfolding environmental catastrophes present formidable representational obstacles that can hinder our efforts to mobilize and act decisively. The long dyings-the staggered and staggeringly discounted casualties, both human and ecological that result from war's toxic aftermaths or climate change-are underrepresented in strategic planning as well as in human memory. Had Summers advocated invading Africa with weapons of mass destruction, his proposal would have fallen under conventional definitions of violence and been perceived as a military or even an imperial invasion. Advocating invading countries with mass forms of slow-motion toxicity, however, requires rethinking our accepted assumptions of violence to include slow violence. Such a rethinking requires that we complicate conventional assumptions about violence as a highly visible act that is newsworthy because it is event focused, time bound, and body bound. We need to account for how the temporal dispersion of slow violence affects the way we perceive and respond to a variety of social afflictions-from domestic abuse to posttraumatic stress and, in particular, environmental calamities. A major challenge is representational: how to devise arresting stories, images, and symbols adequate to the pervasive but elusive violence of delayed effects. Crucially, slow violence is often not just attritional but also exponential, operating as a major threat multiplier; it can fuel long-term, proliferating conflicts in situations where the conditions for sustaining life become increasingly but gradually degraded.

# 1nr

**Ukraine**

1. **Military planners define OCO as cyberattacks – NRC agrees it’s the most useful definition, despite a lack of broad consensus**

**National Research Council** – **2009**, William A. Owens, Kenneth W. Dam, and Herbert S. Lin (editors), National Academy of Sciences, Technology, Policy, Law, and Ethics Regarding U.S. Acquisition and Use of Cyberattack Capabilities, http://www.lawfareblog.com/wp-content/uploads/2013/01/NRC-Report.pdf

**A wide variety of terms in the literature have definitions that overlap with the definitions used in this report.** (It is perhaps emblematic of the state of discussion today that **there is no standard and widely accepted term that denotes attacks on computer systems and networks**.) For example:

• The term “information operations” was used by the Joint Chiefs of Staff in 1998 to denote “actions taken to affect adversary information and information systems while defending one’s own information and information systems.” Information operations were characterized as offensive or defensive, where “offensive information operations” were conducted to affect adversary decision makers and achieve or promote specific objectives. The JCS used the term “information warfare” to refer to information operations conducted during time of crisis or conflict (including war) to achieve or promote specific objectives over a specific adversary or adversaries.2

• The term “network attack” is used by the U.S. Air Force Materiel Command’s Electronic Systems Center to refer to “the employment of network based capabilities to destroy, disrupt, corrupt, or usurp information resident in or transiting through networks.”3

• The term “offensive information warfare” was used by Dorothy Denning to describe an operation that “targets or exploits a particular information resource with the objective of increasing its value to the offensive player and decreasing its value to the defensive player.”4

• The term “information warfare” has been used often, but with a variety of meanings.5 For example, the term is used by the Center for Strategic and International Studies to denote data attack, such as propaganda, disinformation, data overload, and spam; software attack using computer viruses, Trojan horses, or trapdoors; hacking, i.e., penetration, unauthorized use, and/or snooping in other computer systems; and physical kinetic or directed energy attacks against information systems.6 By contrast, Ryan and Ryan define information warfare as “the application of destructive force on a large scale against information assets and systems, against computers and networks which support the air traffic control systems, stock transactions, financial records, currency exchanges, Internet communications, telephone switching, credit record, credit card transactions, the space program, the railroad system, the hospital systems that monitor patients and dispense drugs, manufacturing process control systems, newspaper and publishing, the insurance industry, power distribution and utilities, all of which rely heavily on computers.”7 Ryan and Ryan also note that “Information warfare is, first and foremost, warfare. It is not information terrorism, computer crime, hacking or commercial or state sponsored espionage using networks for access to desirable information.”

• The term “information attack” is used by Davis Brown, a former deputy judge advocate for the U.S. Defense Information Systems Agency, to focus on information or information systems as the object, means, or medium of attack.8

• **The terms “offensive cyber operations”** and “offensive cyberspace operations” **are sometimes heard in discussions with military officials and are apparently used to denote one or more actions,** perhaps taken over a period of time, **to disrupt, deny, degrade, or destroy information resident in computers and computer networks, or the computers and networks themselves**.9 Offensive cyber or cyberspace operations apparently extend beyond computer network attack (for example, they include computer network exploitation) and recognize the possibility that an extended offensive campaign might be waged in cyberspace involving multiple cyberattacks.

• The term “computer network attack” was adopted by the Joint Chiefs of Staff in 2006 to refer to “actions taken through the use of computer networks to disrupt, deny, degrade, or destroy information resident in computers and computer networks, or the computers and networks themselves.”10 In 2006, the Joint Chiefs of Staff also eliminated the term “information warfare” and the distinction between “offensive” and “defensive” information operations.

**After considering the plethora of terms used in this domain, the committee settled on “cyberattack” as the term best describing the primary focus of this report.**

**More ev – presidential directive**

Warwick **Ashford** – 9/2/**13**, Snowden docs show broad and aggressive US cyber intrusions, ComputerWeekly.com, http://www.computerweekly.com/news/2240204552/Snowden-docs-show-broad-aggressive-US-cyber-intrusions

In October 2012, **defense secretary** Leon **Panetta admitted that the US was developing a cyber offensive capability. The** US **defence department** had **developed** tools to trace attackers, he said, and **a cyber strike force that could conduct operations via computer networks.** The latest leaked documents show that of the 231 offensive operations conducted in 2011, nearly three-quarters were against top-priority targets, which former officials say includes adversaries such as Iran, Russia, China and North Korea. **According to a presidential directive** issued in October 2012, **offensive cyber operations** **are defined as activities intended to manipulate, disrupt, deny, degrade or destroy information resident in computers or computer networks, or the computers and networks themselves.**

A cyber war is defined as a conflict that uses hostile, illegal transactions or attacks on computers and networks in an effort to disrupt communications and other pieces of infrastructure as a mechanism to inflict economic harm or upset defenses.

**Butle says ANY ACTION against an adversary’s computer systems that could literally be anything**

**Cyberattack – A2: We’re Not Cyberexploitation**

**Cyberattacks affect manipulation of data — that’s distinct from cyber exploitation which merely copies data**

**Brecher 13, JD Candidate at UMich Law School**, Cyberattacks and the Covert Action Statute: Toward a Domestic Legal Framework for Offensive Cyberoperations, <http://www.michiganlawreview.org/assets/pdfs/111/3/Brecher.pdf>

The term “cyberattack,” as used in this Note, refers to a “deliberate action[] to alter, disrupt, deceive, degrade, or destroy computer systems or networks or the information [or] programs resident in or transiting these systems or networks.”7 Key characteristics of cyberattacks include the great difficulty of attributing them definitively to their sources,8 and their potential to cause almost instantaneous effects from anywhere in the world.9 **Cyberattacks are frequently confused with cyberexploitation**, which as a technical matter is similar. The key difference is that cyberexploitation involves only the monitoring or copying of data, while cyberattacks involve the manipulation of data.10 This Note discusses only the latter

**Cyberattack – Ground XT**

**Conflating cyberattack and cyberexploitation creates bad discussion and bad policy – they require totally separate plans and responses**

**National Research Council** – **2009**, William A. Owens, Kenneth W. Dam, and Herbert S. Lin (editors), National Academy of Sciences, Technology, Policy, Law, and Ethics Regarding U.S. Acquisition and Use of Cyberattack Capabilities, http://www.lawfareblog.com/wp-content/uploads/2013/01/NRC-Report.pdf

**Cyberattack and cyberexploitation are often conflated in public discourse**, and in particular **cyberexploitations are reported** and discussed **using the term “cyberattack.”** For example:

• Congress. Representative Frank Wolf (R-VA) stated on the House floor in June 2008 that “In August 2006, four of the computers in my personal office were compromised by an outside source. On these computers was information about all of the work I have done on behalf of political dissidents and human rights activists around the world. . . . The FBI revealed that the outside sources responsible for this attack [emphasis added] came from within the People’s Republic of China.”1

• News organizations. A Time magazine article of 2005 stated that “Carpenter had never seen hackers work so quickly, with such a sense of purpose. They would commandeer a hidden section of a hard drive, zip up as many files as possible and immediately transmit the data to way stations in South Korea, Hong Kong or Taiwan before sending them to mainland China. They always made a silent escape, wiping their electronic fingerprints clean and leaving behind an almost undetectable beacon allowing them to re-enter the machine at will. An entire attack [emphasis added] took 10 to 30 minutes.”2

• National laboratories. In December 2007, the Oak Ridge National Laboratory posted a notice labeled Potential Identity Theft stating that “Oak Ridge National Laboratory (ORNL) recently experienced a sophisticated cyber attack [emphasis added] that appears to be part of a coordinated attempt to gain access to computer networks at numerous laboratories and other institutions across the country. A hacker illegally gained access to ORNL computers by sending staff e-mails that appeared to be official legitimate communications. When the employees opened the attachment or accessed an embedded link, the hacker planted a program on the employees’ computers that enabled the hacker to copy and retrieve information. The original e-mail and first potential corruption occurred on October 29, 2007. We have reason to believe that data was stolen from a database used for visitors to the Laboratory.”3

The committee believes that **conflating these terms does not contribute to an informed public discussion of cyberattack** or the broader discussion of cybersecurity. Indeed, **such conflation has a number of negative consequences:**

• **It overstates the actual threat,** thus **inflaming public passion and beating the drums of war unnecessarily**. It is certainly true that **cyberexploitations** are not friendly acts, but they **are not armed attacks** either. **Most nations engage in espionage even against allies and neutral nations without it leading to war or even armed conflict, and cyberexploitation is in essence a form of espionage.**

• **Calling a cyberexploitation an attack may imply in the public mind an immediate right to counterattack**—perhaps through cyber means or perhaps through kinetic means—even though the action in question would not properly be regarded as a military attack. Thus, **if policy makers lump together cyberexploitations and real cyberattacks as “cyberattack,” they may well be impelled to counterattack with more force than is appropriate under the circumstances.**

• Calling cyberexploitation a cyberattack could prejudge U.S. positions and interests in future cyber arms control talks. **With an overly broad definition, the United States might find itself unwilling to ratify a treaty in order to preserve certain capabilities that fall short of actual attack, and thus end up outside international norms even when it might not object to limiting certain attack capabilities**.

### Cyberwar

**No cyber war --- other countries recognize it’s mutually destructive and most lack capabilities --- that’s Zettner --- top defense officials agree and their ev is scare-mongering exaggeration --- that’s Guo --- it’s pure threat inflation**

**Walt 10, International Relations Professor at Harvard**

Stephen M., "Is the cyber threat overblown?" Foreign Policy, March 30 walt.foreignpolicy.com/posts/2010/03/30/is\_the\_cyber\_threat\_overblown

Am I the only person -- well, besides Glenn Greenwald and Kevin Poulson -- who thinks **the "cyber-warfare" business may be overblown**? It’s clear the U.S. national security establishment is paying a lot more attention to the issue, and colleagues of mine -- including some pretty serious and level-headed people -- are increasingly worried by the danger of some sort of "cyber-Katrina." I don't dismiss it entirely, but **this** sure **looks** to me **like a classic opportunity for threat-inflation**. Mind you, I'm not saying that there aren't a lot of shenanigans going on in cyber-space, or that various forms of cyber-warfare don't have military potential. So I'm not arguing for complete head-in-the-sand complacency. But here’s what makes me worry that the threat is being overstated. First, **the whole issue is highly esoteric** -- you really need to know a great deal about computer networks, software, encryption, etc., to know how serious the danger might be. **Unfortunately, details** about a number of the alleged incidents **that are being invoked to demonstrate the risk** of a "cyber-Katrina," or a cyber-9/11, **remain classified, which makes it hard** for us lay-persons **to gauge** just how serious **the problem** really was or is. Moreover, even when we hear about computers being penetrated by hackers, or parts of the internet crashing, etc., it’s hard to know how much valuable information was stolen or how much actual damage was done. And as with other specialized areas of technology and/or military affairs, **a lot of the experts have a clear vested interest in hyping the threat, so as to create greater demand for their services**. Plus, we already seem to have politicians leaping on the issue as a way to grab some pork for their states. Second, there are lots of different problems being lumped under a single banner, whether the label is "cyber-terror" or "cyber-war." One issue is the use of various computer tools to degrade an enemy’s military capabilities (e.g., by disrupting communications nets, spoofing sensors, etc.). A second issue is the alleged threat that bad guys would penetrate computer networks and shut down power grids, air traffic control, traffic lights, and other important elements of infrastructure, the way that internet terrorists (led by a disgruntled computer expert) did in the movie Live Free and Die Hard. A third problem is web-based criminal activity, including identity theft or simple fraud (e.g., those emails we all get from someone in Nigeria announcing that they have millions to give us once we send them some account information). A fourth potential threat is “cyber-espionage”; i.e., clever foreign hackers penetrate Pentagon or defense contractors’ computers and download valuable classified information. And then there are annoying activities like viruses, denial-of-service attacks, and other things that affect the stability of web-based activities and disrupt commerce (and my ability to send posts into FP). This sounds like a rich menu of potential trouble, and **putting** the phrase "**cyber" in front of** almost **any noun makes it sound trendy and** a bit **more frightening**. But notice too that these are all somewhat different problems of quite different importance, and the appropriate response to each is likely to be different too. Some issues -- such as the danger of cyber-espionage -- may not require elaborate technical fixes but simply more rigorous security procedures to isolate classified material from the web. Other problems may not require big federal programs to address, in part because both individuals and the private sector have incentives to protect themselves (e.g., via firewalls or by backing up critical data). And as Greenwald warns, there may be real costs to civil liberties if concerns about vague cyber dangers lead us to grant the NSA or some other government agency greater control over the Internet. Third, this is another issue that cries out for some comparative cost-benefit analysis. Is the danger that some malign hacker crashes a power grid greater than the likelihood that a blizzard would do the same thing? Is the risk of cyber-espionage greater than the potential danger from more traditional forms of spying? **Without a comparative assessment of different risks and the costs of mitigating each one, we will allocate resources on the basis of hype rather than analysis**. In short, my fear is not that we won't take reasonable precautions against a potential set of dangers; my concern is that **we will spend** tens of **billions of dollars protecting ourselves against** a set of **threats that are not as dangerous as we are** currently **being told** they are.

**There’s a cognitive bias to their impacts --- most experts go NEG**

**Cavelty 12**

Myriam, PhD and Head of the New Risk Research Unit @ the Center for Security Studies, “The militarisation of cyber security as a source of global tension,” Feb. 1 http://www.academia.edu/1471717/The\_militarisation\_of\_cyber\_security\_as\_a\_source\_of\_global\_tension

 Since the potentially devastating effects of cyber attacks are so scary, **the temptation is very high not only to think about worst-case scenarios, but also to give them a lot of** (often too much) **weight despite** their **very low probability**. However, **most experts agree that strategic cyber war remains highly unlikely** in the foreseeable future, mainly **due to** the **uncertain results** such a war would bring, **the lack of motivation** on the part of the possible combatants, **and** their shared **inability to defend against counterattacks**. Indeed, **it is hard to see how cyber attacks could ever become truly effective** for military purposes: **It is exceptionally difficult to take down multiple, specific targets and keep them down over time**. The key difficulty is proper reconnaissance and targeting, as well as the need to deal with a variety of diverse systems and be ready for countermoves from your adversary.

**Cyber prolif inevitable, but use is limited because of small strategic utility**

**Liff 12**

Adam, research fellow @ University of Tokyo's Institute of Social Science and political science, PhD candidate @ Princeton, “Cyberwar: A New ‘Absolute Weapon’? The Proliferation of Cyberwarfare Capabilities and Interstate War” Journal of Strategic Studies, Vol35, Iss3

Although the proliferation of cyberwarfare capabilities may have the net effect of increasing the frequency of war, much of **the** public **debate on cyberwarfare is excessively pessimistic**. **Cyberwarfare appears to be a tool** for states **to pursue** political (strategic) and/or military (tactical) **objectives at relatively low cost** only under very limited circumstances. Although Stuxnet manifests cyberwarfare’s potential to become a useful brute force measure, no examples of irrefutably effective coercive CNA exist. Cyberattacks against Estonia in 2007 were an example of ‘hacktivism’, not war. 64 Although **the** 2008 **cyber exchange between Georgia and Russia** better fits the bill, the attacks **had no measurable impact on bargaining or the war’s outcome**. Thus, **CNA**’s most ‘game- changing’ aspect may be its usefulness as a **brute force** weapon, which **will probably have** at most **a marginal effect** on the frequency of war. In short, although **gradual proliferation of cyberwarfare capabilities may be inevitable**, the **widespread use** of CNA **is probably not**.

**This is offense --- hyping up the threat creates a self-fulfilling prophecy**

Green ’2, **Joshua Green, editor of Washington Monthly, November, 2002, The Myth of Cyberterrorism,**

 **Washington Monthly, p.** [**http://www.washingtonmonthly.com/features/2001/0211.green.html#byline**](http://www.washingtonmonthly.com/features/2001/0211.green.html#byline)

The danger of hyping a threat like cyberterrorism is that once the exaggeration becomes clear, the public will grow cynical toward warnings about real threats. The Chicken Little approach might be excusable were the Bush administration hyping cyberterrorism in order to build political momentum for dealing with the true problem posed by hackers and shoddy software. There is a precedent for this sort of thing. In the midst of all the anxiety about the Y2K bug, the federal government and the SEC came up with a novel way to ensure that private companies were ready: They required businesses to disclose their preparations to shareholders, setting goals and letting market forces do the rest. There were high hopes, then, for the Bush administration's National Strategy to Secure Cyberspace--the culmination of a year's effort to address the country's post-9/11 cybersecurity problems. Clarke's team circulated early drafts that contained what most experts considered to be solid measures for shoring up security in government, business, and home computers. But the business community got word that the plan contained tough (read: potentially costly) prescriptions, and petitioned the White House, which gutted them. When a draft of the plan was rolled out in mid-September, Bill Conner, president of the computer security firm Entrust, told The Washington Post, "It looks as though a Ph.D. wrote the government items, but it reads like someone a year out of grade school wrote the rest of the plan." It's hard to imagine a worse outcome for all involved, even private industry. By knuckling under to the business community's anti-regulatory impulses, Bush produced a weak plan that ultimately leaves the problem of cybersecurity to persist. It proposes no regulations, no legislation, and stops well short of even the Y2K approach, prompting most security experts to dismiss it out of hand. What it does do instead is continue the stream of officially sanctioned scaremongering about cyberattack, much to the delight of software companies. IT security remains one of the few bright spots in the depressed tech market and thus that important sector of the market is perfectly satisfied with the status quo. But as the Nimda virus proved, even companies that pay for security software (and oppose government standards) don't realize just how poorly it protects them. So in effect, the Bush administration has created the conditions for what amounts to war profiteering--frightening businesses into investing in security, but refusing to force the changes necessary to make software safe and effective. The way the Bush White House has exaggerated the likelihood of cyberterrorism is familiar to anyone who's followed its style of government. This is an administration that will frequently proclaim a threat (the Saddam/al Qaeda connection, for instance) in order to forward its broader agenda, only to move on nonchalantly when evidence proves elusive or nonexistent. But in this case, by moving on, Bush leaves unaddressed something that really is a problem--just not one that suits the administration's interests. Forced to choose between increasing security and pleasing his business base, the president has chosen the latter. Hyping a threat that doesn't exist while shrinking from one that does is no way to protect the country.

#### Only scenario is China --- that won’t happen because of massive costs from both sides --- that’s THEIR AUTHOR Moss

**No impact to China cyber attack – they know the US would overwhelm**

**Ross 9**

Robert. professor of political science at Boston College, an associate of the John King Fairbank Center for East Asian Research at Harvard University and a fellow of the Security Studies Program at the Massachusetts Institute of Technology. September/October 2009. <http://www.nationalinterest.org/Article.aspx?id=22022>.

Beijing is also developing cyber-warfare techniques, but exaggerated assessments of this capability fail to evaluate China’s own emerging vulnerability to such attacks. Cyber-warfare technologies and skills are readily accessible and U.S. advanced munitions are increasingly dependent on high-technology communication and surveillance technologies. The United States is thus vulnerable to cyber attacks, and a Chinese cyber offensive against the United States could influence U.S. operations in the western Pacific. Nonetheless, **the reciprocal effect of Washington’s cyber-warfare capability on Beijing’s** ability to wage high-technology warfare **is equally significant**. **The** same advanced **Chinese technologies** and weaponry **that pessimists argue present a major threat** to U.S. security, including ASBMs, **are highly dependent on** advanced communication and surveillance **technologies that are** particularly **vulnerable to U.S. cyber attacks**. And once the United States degrades the PLA’s advanced communication technologies, **China would lose its high-technology asymmetric capability** that so alarms America’s pessimists, **and it would be very susceptible to a wide range of superior U.S.** sea-based **forces, even if the United States suffered from an effective Chinese cyber attack**.

**-----Regulation is impossible without LARGE international agreements – their ev**

**Benavides 7/30**/13 (Stephen Benavides is a policy analyst and union organizer from Dallas. He holds a bachelor's degree in political science from the University of North Texas and has done graduate research in econometrics and economic theory. , “The Coming Cyber-Cold War: US Pioneering Online Attacks”, <http://truth-out.org/news/item/17714-the-coming-cyber-cold-war>)

The question of how to regulate such a thing, if it's even possible**, would require a level of international cooperation never before seen**. And **that's the problem**. Outside of prosecuting domestic violations of the Constitution, we are in uncharted territory. At least with the Cold War of past, there were established rules of engagement. Everyone understood what brinksmanship may entail and had a contingency plan for every contingency plan. **With the elimination of borders, there has been an elimination of international law.** According to Mike Jacobs, former National Security Agency director, "If you are engaged in reconnaissance on an adversary's systems, you are laying the electronic battlefield and preparing to use it." Unreleased zero-day exploits in software allow governments to access networks and other systems of surveillance targets without the targets' knowledge. US Cyber Command has the ability to trace the physical and online address of every device connected to the Internet - and attack if need be. Any target who moves locally or internationally is now unable to escape government or corporate surveillance. If the US considers this type of activity to be warfare, it's fair to say that every other nation does too.

**--Where Emory’s Card Starts--**

The unregulated nature of the cyber arms trade not only leaves open the possibility of technology falling into an opposition organization's possession, but guarantees it. Once again, the US is leading weapons proliferation. Political inconvenience of a militarized conventional war also may play a part in the burgeoning cyber war. It is much more difficult for military commanders to justify the death of a sister or brother in combat operations widely understood to be about maintaining access to energy resources than a "victimless" attack on a foreign government to protect internal bank documents or dam vulnerabilities.

**-----No nuclear escalation**

**Sanger and Baker 10** (David E. and Peter, Staff @ New York Times, “Obama Limits When U.S. Would Use Nuclear Arms”.  [http://www.nytimes.com/2010/04/06/world/06arms.html](http://www.nytimes.com/2010/04/06/world/06arms.html%22%20%5Ct%20%22_blank))

WASHINGTON — President Obama said Monday that he was revamping American nuclear strategy to **substantially narrow** the conditions under which the United States would use nuclear weapons,**even in self defense. B**ut the president said in an interview that he was carving out an exception for “outliers like Iran and North Korea” that have violated or renounced the main treaty to halt nuclear proliferation. Discussing his approach to nuclear security the day before formally releasing his new strategy, Mr. Obama described his policy as part of a broader effort to edge the world toward making nuclear weapons obsolete, and to create incentives for countries to give up any nuclear ambitions. To set an example, the new strategy renounces the development of any new nuclear weapons, overruling the initial position of his own defense secretary. Mr. Obama’s strategy is a sharp shift from those adopted by his predecessors and seeks to revamp the nation’s nuclear posture for a new age in which rogue states and terrorist organizations are greater threats than traditional powers like Russia and China.  It eliminates much of the ambiguity that has deliberately existed in American nuclear policy since the opening days of the Cold War. For the first time, the United States is explicitly committing not to use nuclear weapons against non-nuclear states that are in compliance with the Nuclear Non-Proliferation Treaty, even if theyattacked the United States with biological or chemical weapons, or **launched a crippling cyberattack**.

**Diminishing marginal returns means there’s no impact**

Martin C. **Libicki 9**, Senior Management Scientist @ RAND and adjunct fellow @ Georgetown’s Center for Security Studies, “Cyberdeterrence and Cyberwar,” RAND, <http://www.rand.org/pubs/monographs/MG877.html>

**Strategic Cyberwar Is Unlikely to Be Decisive ¶** No one knows how destructive any one strategic cyberwar attack would be. Estimates of the damage from today’s cyberattacks within the United States range from hundreds of billions of dollars to just a few billion dollars per year. ¶ The higher dollar figures suggest that cyberattacks on enemy civilian infrastructures—strategic cyberwar—may be rationalized as a way to assist military efforts or as a way to coerce the other side to yield to prevent further suffering. But can strategic cyberwar induce political compliance the way, say, strategic airpower would? Airpower tends to succeed when societies are convinced that matters will only get worse. With cyberattacks, the opposite is more likely. As systems are attacked, vulnerabilities are revealed and repaired or routed around. As systems become more hardened, societies become **less vulnerable** and are likely to become **more**, rather than less, **resistant to further coercion.**

**-----Uncontrollability of cyber-war is a neg warrant --- means countries won’t use them**

Thomas P.M. **Barnett 13**, special assistant for strategic futures in the U.S. Defense Department's Office of Force Transformation from 2001 to 2003, is chief analyst for Wikistrat, March/April 2013, “Think Again: The Pentagon,” Foreign Policy, http://www.foreignpolicy.com/articles/2013/03/04/the\_pentagon?page=full

As for cyber serving as a stand-alone war-fifighting domain, there you'll find the debates no less theological in their intensity. After serving as senior managing director for half a dozen years at a software firm that specializes in securing supply chains, **I'm deeply skeptical.** Given the uncontrollable nature of cyberweapons (see: Stuxnet's many permutations), I view them as the 21st century's version of chemical weapons -- **nice to have, but hard to use**. Another way to look at it is to simply call a spade a spade: Cyberwarfare is nothing more than espionage and sabotage updated for the digital era. Whatever cyberwar turns out to be in the national security realm, it will always be dwarfed by the industrial variants -- think cyberthieves, not cyberwarriors. But you wouldn't know it from the panicky warnings from former Defense Secretary Leon Panetta and the generals about the imminent threat of a "cyber Pearl Harbor."¶ Please remember amid all this frenetic scaremongering that the Pentagon is never more frightened about our collective future than when it's desperately uncertain about its own. Given the rising health-care costs associated with America's aging population and the never-ending dysfunction in Washington, we should expect to be bombarded with frightening scenarios of planetary doom for the next decade or two. None of this bureaucratic chattering will **bear any resemblance to global trends**, which demonstrate that wars have grown increasingly infrequent, shorter in duration, and diminished in lethality. But you won't hear that from the next-warriors on the Potomac.

**Zero impact to cyber arms race --- overwhelming consensus of qualified authors goes neg**

- No motivation---can’t be used for coercive leverage

- Defenses solve---benefits of offense are overstated

- Too difficult to execute/mistakes in code are inevitable

- AT: Infrastructure attacks

- Military networks are air-gapped/difficult to access

- Overwhelming consensus goes neg

Colin S. **Gray 13**, Prof. of International Politics and Strategic Studies @ the University of Reading and External Researcher @ the Strategic Studies Institute @ the U.S. Army War College, April, “Making Strategic Sense of Cyber Power: Why the Sky Is Not Falling,” U.S. Army War College Press, <http://www.strategicstudiesinstitute.army.mil/pdffiles/PUB1147.pdf>

CONCLUSIONS AND RECOMMENDATIONS: **THE SKY IS NOT FALLING**¶ This analysis has sought to explore, identify, and explain the strategic meaning of cyber power. The organizing and thematic question that has shaped and driven the inquiry has been “So what?” Today we all do cyber, but this behavior usually has not been much informed by an understanding that reaches beyond the tactical and technical. I have endeavored to analyze in strategic terms what is on offer from the largely technical and tactical literature on cyber. What can or might be done and how to go about doing it are vitally important bodies of knowledge. But at least as important is understanding what cyber, as a fifth domain of warfare, brings to national security when it is considered strategically. Military history is stocked abundantly with examples of tactical behavior un - guided by any credible semblance of strategy. This inquiry has not been a campaign to reveal what cy ber can and might do; a large literature already exists that claims fairly convincingly to explain “how to . . .” But what does cyber power mean, and how does it fit strategically, if it does? These Conclusions and Rec ommendations offer some understanding of this fifth geography of war in terms that make sense to this strategist, at least. ¶ 1. Cyber can only be an enabler of physical effort. Stand-alone (popularly misnamed as “strategic”) cyber action is inherently **grossly limited by its immateriality.** The physicality of conflict with cyber’s human participants and mechanical artifacts has not been a passing phase in our species’ strategic history. Cyber action, quite independent of action on land, at sea, in the air, and in orbital space, certainly is possible. But the strategic logic of such behavior, keyed to anticipated success in tactical achievement, is not promising. To date, “What if . . .” **speculation** about strategic cyber attack usually is either contextually too light, or, more often, contextually **unpersuasive**. 49 However, this is not a great strategic truth, though it is a judgment advanced with considerable confidence. Although societies could, of course, be hurt by cyber action, it is important not to lose touch with the fact, in Libicki’s apposite words, that “[i]n the absence of physical combat, cyber war cannot lead to the occupation of territory. It is almost **inconceivable** that a sufficiently vigorous cyber war can overthrow the adversary’s government and replace it with a more pliable one.” 50 In the same way that the concepts of sea war, air war, and space war are fundamentally unsound, so also the idea of cyber war is unpersuasive. ¶ It is not impossible, but then, neither is war conducted only at sea, or in the air, or in space. On the one hand, cyber war may seem more probable than like environmentally independent action at sea or in the air. After all, cyber warfare would be **very unlikely to harm human beings directly**, let alone damage physically the machines on which they depend. These near-facts (cyber attack might cause socially critical machines to behave in a rogue manner with damaging physical consequences) might seem to ren - der cyber a safer zone of belligerent engagement than would physically violent action in other domains. But most likely there would be serious uncertainties pertaining to the consequences of cyber action, which must include the possibility of escalation into other domains of conflict. Despite popular assertions to the contrary, cyber is not likely to prove a precision weapon anytime soon. 51 In addition, assuming that the political and strategic contexts for cyber war were as serious as surely they would need to be to trigger events warranting plausible labeling as cyber war, the distinctly limited harm likely to follow from cyber assault would hardly appeal as prospectively effective coercive moves. On balance, it is most probable that cyber’s strategic future in war will be as a contribut - ing enabler of effectiveness of physical efforts in the other four geographies of conflict. Speculation about cyber war, defined strictly as hostile action by net - worked computers against networked computers, is hugely unconvincing.¶ 2. Cyber defense is difficult, but should be **sufficiently effective.** The structural advantages of the offense in cyber conflict are as obvious as they are **easy to overstate.** Penetration and exploitation, or even attack, would need to be by surprise. It can be swift almost beyond the imagination of those encultured by the traditional demands of physical combat. Cyber attack may be so stealthy that it escapes notice for a long while, or it might wreak digital havoc by com - plete surprise. And need one emphasize, that at least for a while, hostile cyber action is likely to be hard (though not quite impossible) to attribute with a cy - berized equivalent to a “smoking gun.” Once one is in the realm of the catastrophic “What if . . . ,” the world is indeed a frightening place. On a personal note, this defense analyst was for some years exposed to highly speculative briefings that hypothesized how unques - tionably cunning plans for nuclear attack could so promptly disable the United States as a functioning state that our nuclear retaliation would likely be still - born. I should hardly need to add that the briefers of these Scary Scenarios were obliged to make a series of Heroic Assumptions. ¶ The literature of cyber scare is more than mildly reminiscent of the nuclear attack stories with which I was assailed in the 1970s and 1980s. As one may observe regarding what Winston Churchill wrote of the disaster that was the Gallipoli campaign of 1915, “[t]he terrible ‘Ifs’ accumulate.” 52 Of course, there are dangers in the cyber domain. Not only are there cyber-competent competitors and enemies abroad; there are also Americans who make mistakes in cyber operation. Furthermore, there are the manufacturers and constructors of the physical artifacts behind (or in, depending upon the preferred definition) cyber - space who assuredly err in this and that detail. The more sophisticated—usually meaning complex—the code for cyber, the more **certain** must it be that mistakes both lurk in the program and will be made in digital communication.¶ What I have just outlined minimally is not a reluc - tant admission of the fallibility of cyber, but rather a statement of what is obvious and should be anticipat - ed about people and material in a domain of war. All human activities are more or less harassed by friction and carry with them some risk of failure, great or small. A strategist who has read Clausewitz, especially Book One of On War , 53 will know this. Alternatively, anyone who skims my summary version of the general theory of strategy will note that Dictum 14 states explicitly that “Strategy is more difficult to devise and execute than are policy, operations, and tactics: friction of all kinds comprise phenomena inseparable from the mak - ing and execution of strategies.” 54 Because of its often widely distributed character, the physical infrastruc - ture of an enemy’s cyber power is typically, though not invariably, an impracticable target set for physical assault. Happily, this probable fact should have only annoying consequences. The discretionary nature and therefore the variable possible characters feasible for friendly cyberspace(s), mean that the more danger - ous potential vulnerabilities that in theory could be the condition of our cyber-dependency ought to be avoidable at best, or bearable and survivable at worst. Libicki offers forthright advice on this aspect of the subject that deserves to be taken at face value: ¶ [T]here is no inherent reason that improving informa - tion technologies should lead to a rise in the amount of critical information in existence (for example, the names of every secret agent). Really critical information should never see a computer; if it sees a computer, it should not be one that is networked; and if the computer is networked, it should be air-gapped.¶ Cyber defense admittedly is difficult to do, but so is cyber offense. To quote Libicki yet again, “[i]n this medium [cyberspace] the best defense is not necessarily a good offense; it is usually a good defense.” 56 Unlike the geostrategic context for nuclear-framed competition in U.S.–Soviet/Russian rivalry, the geographical domain of cyberspace definitely is defensible. Even when the enemy is both clever and lucky, it will be our own design and operating fault if he is able to do more than disrupt and irritate us temporarily.¶ When cyber is contextually regarded properly— which means first, in particular, when it is viewed as but the latest military domain for defense planning—it should be plain to see that cyber performance needs to be good enough rather than perfect. 57 Our Landpower, sea power, air power, and prospectively our space systems also will have to be capable of accepting combat damage and loss, then recovering and carrying on. There is no fundamental reason that less should be demanded of our cyber power. Second, given that cyber is not of a nature or potential character at all likely to parallel nuclear dangers in the menace it could con - tain, we should anticipate international cyber rivalry to follow the competitive dynamic path already fol - lowed in the other domains in the past. Because the digital age is so young, the pace of technical change and tactical invention can be startling. However, the mechanization RMA of the 1920s and 1930s recorded reaction to the new science and technology of the time that is reminiscent of the cyber alarmism that has flour - ished of recent years. 58 We can be confident that cyber defense should be able to **function well enough**, given the strength of political, military, and commercial motivation for it to do so. The technical context here is a medium that is a constructed one, which provides air-gapping options for choice regarding the extent of networking. Naturally, a price is paid in convenience for some closing off of possible cyberspace(s), but all important defense decisions involve choice, so what is novel about that? There is nothing new about accepting some limitations on utility as a price worth paying for security.¶ 3. Intelligence is critically important, but informa - tion should not be overvalued. The strategic history of cyber over the past decade confirms what we could know already from the science and technology of this new domain for conflict. Specifically, cyber power is not technically forgiving of user error. Cyber warriors seeking criminal or military benefit require precise information if their intended exploits are to succeed. Lucky guesses should not stumble upon passwords, while efforts to disrupt electronic Supervisory Con - trol and Data Acquisition (SCADA) systems ought to be unable to achieve widespread harmful effects. But obviously there are practical limits to the air-gap op - tion, given that control (and command) systems need to be networks for communication. However, Internet connection needs to be treated as a potential source of serious danger.¶ It is one thing to be able to be an electronic nuisance, to annoy, disrupt, and perhaps delay. But it is quite another to be capable of inflicting real persisting harm on the fighting power of an enemy. Critically important military computer networks are, of course, accessible neither to the inspired amateur outsider, nor to the malignant political enemy. Easy passing reference to a hypothetical “cyber Pearl Harbor” reflects both poor history and **ignorance of contemporary military common sense.** Critical potential military (and other) targets for cyber attack are **extremely hard** to access and influence (I believe and certainly hope), and the technical knowledge, skills, and effort required to do serious harm to national security is **forbiddingly high.** This is not to claim, foolishly, that cyber means absolutely could not secure near-catastrophic results. However, it is to say that such a scenario is **extremely improbable**. Cyber defense is advancing all the time, as is cyber offense, of course. But so discretionary in vital detail can one be in the making of cyberspace, that confidence—real confidence—in cyber attack could not plausibly be high. It should be noted that I am confining this particular discussion to what rather idly tends to be called cyber war. In political and strategic practice, it is unlikely that war would or, more importantly, ever could be restricted to the EMS. Somewhat rhetorically, one should pose the question: Is it likely (almost anything, strictly, is possible) that cyber war with the potential to inflict catastrophic damage would be allowed to stand unsupported in and by action in the other four geographical domains of war? I believe not.¶ Because we have told ourselves that ours uniquely is the Information Age, we have become unduly respectful of the potency of this rather slippery catch-all term. As usual, it is helpful to contextualize the al - legedly magical ingredient, information, by locating it properly in strategic history as just one important element contributing to net strategic effectiveness. This mild caveat is supported usefully by recognizing the general contemporary rule that information per se harms nothing and nobody. The electrons in cyber - ized conflict have to be interpreted and acted upon by physical forces (including agency by physical human beings). As one might say, intelligence (alone) sinks no ship; only men and machines can sink ships! That said, there is no doubt that if friendly cyber action can infiltrate and misinform the electronic informa - tion on which advisory weaponry and other machines depend, considerable warfighting advantage could be gained. I do not intend to join Clausewitz in his dis - dain for intelligence, but I will argue that in strategic affairs, intelligence usually is somewhat uncertain. 59 Detailed up-to-date intelligence literally is essential for successful cyber offense, but it can be healthily sobering to appreciate that the strategic rewards of intelligence often are considerably exaggerated. The basic reason is not hard to recognize. Strategic success is a complex endeavor that requires adequate perfor - mances by many necessary contributors at every level of conflict (from the political to the tactical). ¶ When thoroughly reliable intelligence on the en - emy is in short supply, which usually is the case, the strategist finds ways to compensate as best he or she can. The IT-led RMA of the past 2 decades was fueled in part by the prospect of a quality of military effec - tiveness that was believed to flow from “dominant battle space knowledge,” to deploy a familiar con - cept. 60 While there is much to be said in praise of this idea, it is not unreasonable to ask why it has been that our ever-improving battle space knowledge has been compatible with so troubled a course of events in the 2000s in Iraq and Afghanistan. What we might have misunderstood is not the value of knowledge, or of the information from which knowledge is quarried, or even the merit in the IT that passed information and knowledge around. Instead, we may well have failed to grasp and grip understanding of the whole context of war and strategy for which battle space knowledge unquestionably is vital. One must say “vital” rather than strictly essential, because relatively ignorant armies can and have fought and won despite their ig - norance. History requires only that one’s net strategic performance is superior to that of the enemy. One is not required to be deeply well informed about the en - emy. It is historically quite commonplace for armies to fight in a condition of more-than-marginal reciprocal and strategic cultural ignorance. Intelligence is king in electronic warfare, but such warfare is unlikely to be solely, or even close to solely, sovereign in war and its warfare, considered overall as they should be.¶ 4. Why the sky will not fall. More accurately, one should say that the sky will not fall because of hostile action against us in cyberspace unless we are improb - ably careless and foolish. David J. Betz and Tim Ste vens strike the right note when they conclude that “[i]f cyberspace is not quite the hoped-for Garden of Eden, it is also not quite the pestilential swamp of the imagination of the cyber-alarmists.” 61 Our understanding of cyber is high at the technical and tactical level, but re - mains distinctly rudimentary as one ascends through operations to the more rarified altitudes of strategy and policy. Nonetheless, our **scientific, technological, and tactical knowledge** and understanding **clearly indicates** that **the sky** is not falling and **is unlikely to fall in the future as a result of hostile cyber action.** This analysis has weighed the more technical and tactical literature on cyber and concludes, **not simply on balance**, that cyber alarmism has little basis save in the imagination of the alarmists. There is military and civil peril in the hostile use of cyber, which is why we must take cyber security seriously, even to the point of buying redundant capabilities for a range of command and control systems. 62 So seriously should we regard cyber danger that it is only prudent to as - sume that we will be the target for hostile cyber action in future conflicts, and that some of that action will promote disruption and uncertainty in the damage it will cause.¶ That granted, this analysis recommends strongly that the U.S. Army, and indeed the whole of the U.S. Government, should strive to comprehend cyber in context. Approached in isolation as a new technol - ogy, it is not unduly hard to be over impressed with its potential both for good and harm. But if we see networked computing as just the latest RMA in an episodic succession of revolutionary changes in the way information is packaged and communicated, the computer-led IT revolution is set where it belongs, in historical context. In modern strategic history, there has been only one truly game-changing basket of tech - nologies, those pertaining to the creation and deliv - ery of nuclear weapons. Everything else has altered the tools with which conflict has been supported and waged, but has not changed the game. The nuclear revolution alone raised still-unanswered questions about the viability of interstate armed conflict. How - ever, it would be accurate to claim that since 1945, methods have been found to pursue fairly traditional political ends in ways that accommodate nonuse of nuclear means, notwithstanding the permanent pres - ence of those means.¶ The light cast by general strategic theory reveals what requires revealing strategically about networked computers. Once one sheds some of the sheer wonder at the seeming miracle of cyber’s ubiquity, instanta - neity, and (near) anonymity, one realizes that cyber is just another operational domain, though certainly one very different from the others in its nonphysi - cality in direct agency. Having placed cyber where it belongs, as a domain of war, next it is essential to recognize that its nonphysicality compels that cyber should be treated as an enabler of joint action, rather than as an agent of military action capable of behav - ing independently for useful coercive strategic effect. There are stand-alone possibilities for cyber action, but they are not convincing as attractive options either for or in opposition to a great power, let alone a superpower. No matter how intriguing the scenario design for cyber war strictly or for cyber warfare, the logic of grand and military strategy and a common sense fueled by understanding of the course of strategic history, require one so to contextualize cyber war that its independence is seen as too close to **absurd** to merit much concern.

### ARTICLE II?????

#### Hammond about

#### NSA is a major alt cause --- this is YOUR ARTICLE

**Butler 4/26, Appellate Advocacy Counsel for the Electronic Privacy Information Center**, When Cyberweapons End Up On Private Networks: Third Amendment Implications for Cybersecurity Policy, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2257078>

A. Authority: **Congress Must Be Involved in Establishing Any Framework for the Authorization of Cyberoperations** Given that the Third Amendment requires war-time quartering be conducted “in a manner to be prescribed by law,”223 Congress must have a role in establishing the framework used to authorize any offensive cyberoperation. This legislative involvement would not only ensure that all cyberoperations have adequate legal authorization but it would also promote the broader goals of transparency and cooperation that the President has emphasized throughout this process. So far Congress has focused its energy on perceived problems rather than real solutions.224 A debate raged in the 112th Congress over whether to let DHS or NSA take the lead on a proposed information-sharing environment.225 This turf war was quite tangential from the problems of substandard security for critical systems and a lack of legal clarity as to the role of each government agency in responding to an external threat or strategic opportunity.226 The only congressional involvement in developing a cybersecurity framework so far has been its brief affirmance in the 2012 National Defense Authorization Act227 that the President may conduct “operations in cyberspace” subject to the traditional legal regimes applicable to kinetic warfare.228 Congress’s active role in setting our nation’s military actions in cyberspace is the only way to have a national dialogue and to avoid relying on secret legal interpretations about important national security matters. The President took steps to begin a national dialogue when he issued an Executive Order on the same day as the 2013 State of the Union Address.229 The Executive Order focused on improving critical infrastructure cybersecurity while promoting privacy, civil liberties, and the economy.230 The Order also provided for sharing of “cyber threat information” from executive branch agencies to private sector entities,231 and the development of a framework by the National Institute of Standards and Technology (NIST) to establish baseline security standards for government agencies and critical infrastructure companies.232 The Order also required that privacy and civil liberties protections be incorporated into the cybersecurity program and that the Chief Privacy Officer of DHS assess the privacy risks and publish a report.233 The Executive Order did not address the “information sharing environment” proposed in Congress during 2012 and again in 2013.234 The Order also did not address the legal determination of when and how cyberoperations can be authorized, which has apparently already been made in an internal executive-branch memorandum.235 The President’s Executive Order is a step in the right direction but it **does not provide sufficient authority** for cyberoperations that could intrude upon civilian systems; **only Congress can authorize such quartering**.

**CMR crisis now --- Munson --- Interference link’s non-unique**

**Carafano 13**

[James, vice president of Foreign and Defense policy studies at The Heritage Foundation, Uncivil Military Relations, 3/6/13, <http://nationalinterest.org/commentary/uncivil-military-relations-8186>]

In contrast, **political leaders should never outsource** the field of **battle to the field marshals.** Lincoln, one of the leaders profiled in Supreme Command, quickly learned the lesson that he had to understand war to lead the nation to victory in war. Cohen’s case study of Lincoln captures precisely how that **small space shared** between the military and political spheres **demands the very best of leaders**—both civilian and military. Operating effectively requires the right mix of trust, confidence, competence and character. There are many signs that **the bridge across the Potomac is shaky**. **The president** has sent plenty of signals that, beyond reciting the usual platitudes, he **doesn’t consider preserving military readiness** **and defense capabilities more of a priority than keeping any other government department humming.** He was, after all, more than willing to hold defense hostage during the sequestration debate—trying to force conservatives in the Congress to choose between tax hikes or gutting national security (which takes 50 percent of the sequestration cuts on top of the billions the president has already taken off the Pentagon’s top line). Meanwhile, **the Pentagon’s top brass have a credibility problem** of their own. When the former chairman of the Joint Chiefs of Staff, Admiral Mike Mullen, famously declared the national debt was America’s number one national-security threat, many in Washington interpreted the comment not as a warning to get the nation’s fiscal house in order but as green light for defense cuts. Further, **the** current chairman and **chiefs have not been much** better **advocates for** a **strong national defense**. For months, **they said** virtually **nothing about the dangers of the** so-called **sequester**. Only when the White House wanted to ratchet up pressure on Congress to axe the sequester in favor or higher taxes did the brass start trumpeting their doom and gloom warnings. **When it comes to readiness** and capabilities, **the senior officer corps is starting to look** a bit **like** **presidential sock puppets**.

Perception is empirically denied by detention cases like Hamdan, Rasul, and Boumediene

**CMR crisis is reaching crisis proportions**

**Munson 12** (Peter, Marine officer, author, and Middle East specialist, 11-12-12, "A Caution on Civil-Military Relations" Small Wars Journal) smallwarsjournal.com/jrnl/art/a-caution-on-civil-military-relations

This brief post represents only a few quickly dashed thoughts in the hope of getting something on paper that might morph into a longer and more useful essay on civil-military relations. I believe that **civil-military relations in the United States are deeply troubled.** The issues are lurking mostly in the background right now. On the surface, our leadership—civilian and military—has been able to negotiate some relatively complex rapids without any of the major drama that has cropped up in the past. The falling out between Truman and MacArthur comes to mind. Nonetheless, there are serious background **issues that will only get worse in 2014** and beyond. There are several reasons for concern. The all-volunteer force has fought two brutal wars for over a decade while a (guilty or thankful) American population has stood by with very little involvement. There have been no war bonds, no victory gardens, no bandage wrapping drives, no air raid drills—nothing to make them feel a part of the conflict other than the human interest stories about killed and wounded veterans and the once-nightly footage of shattered HMMWVs and burning convoys. This has created an inequality in experience and sacrifice that the public has generally attempted to repay through extreme deference and ever-multiplying shows of thankfulness, the likes of which have never been seen in American society. Part of this is as a corrective to the disgraceful treatment of our Vietnam veterans, to be sure, but it has consequences nonetheless. In the face of such an inequality of experience and service and in such a deferential environment, **public criticism of the military is all too easily dismissed as unpatriotic.** Not only is this foil used to deflect criticism, but its threat deters many from bringing up much needed commentary and dissent. Likewise, **unquestioning support of the military** plays no small factor in **making any discussion of rationalizing military budgets and targeting wasteful military spending difficult, if not impossible.** Late addition: This dynamic plays out in media coverage of the military, as well, leading to an insufficient criticality, or at least a lack of perspective, in much coverage. At worst, the media becomes a propaganda arm or engages in a cult of hero worship that perpetuates the dynamics above. As this coverage creates narratives that impact critical national security decisions, it likewise skews civil-military relations. The media is a central part of any civil-military dynamic in a democracy, providing the information that informs public discourse and shapes the decision-making space. If the media is incapable of being a relatively objective arbiter, this contributes to a flawed civil-military dynamic. The military, itself, has internalized much of this adulation. When ushered to the front of boarding lines at the airport, offered discounts at a myriad of establishments, proffered all sorts of swag at any number of appreciation venues, and even venerated daily on cable news with the incredibly self-centered practice of surprise homecomings, it is difficult for members **of the military not to fall victim to a culture of creeping narcissism.** Faced with lengthy, rapid fire deployments that placed some military members away from the stabilizing influences of family and normality for years of their lives, the military itself had to play up a narrative of sacrifice and exceptionalism to help keep the trains running. This narrative was drummed into the military and reinforced by its members who saw themselves deploying again and again as society stayed home and placed them on a pedestal. This is not to say that the sacrifice was insignificant, but to acknowledge that there were second order effects of the adulation. Even within the military, there was a significant inequality in hardships faced, from “FOBbits” with daily access to all the comforts of home to infantrymen living in squalor and under the constant threat of not only death, but horrific dismemberment. This additional dynamic, as an aside, has led to a significant insecurity on the part of some (but surely not most or all) of those servicemembers who operated in support roles. You can see it in those who make cryptic references to their “special operations” background or play up training that they never rightfully received. You see, even within the military there is a distinct hierarchy of who has truly “been there and done that” and those who feel they must insinuate that they did. I may be wrong, but I get the sense that the post-WWII culture just assumed that everyone had done their part and little need be said about it. In all, **this adds up to a military that** at least in part **feels it has earned entitlement, that it deserves the deferential treatment** it receives, and that America needs to sacrifice to provide for the military—whether that be benefits or budget outlays. **This is an incredibly dangerous cultural artifact, especially in light of the coming period of adjustment. As America’s involvement in Afghanistan winds down and as the nation is forced to adjust to new fiscal realities, the military will face a time of significant adjustment and likely austerity. A military with an entitled culture and an inability to countenance searing introspection will be unable to properly adjust**

to these new realities and will fail to make the necessary reforms, corrections, and resets that the strategic situation demands. More critically, the prospects for **an unfavorable outcome in Afghanistan, coupled with significant budget cuts, will open the door for a “knife in the back” narrative that might argue that the civilian politicians and the American public “lost” the conflict** by giving up on the great sacrifice and heroic efforts of the American military there and, furthermore, the government then slashed the military budget (and perhaps restructured some entitlements) betraying a military charged with facing a plethora of threats around the world. **Such a narrative would be** dangerous—**poisonous—for civil-military relations**. In this it is important to recognize that our political institutions are undergoing a crisis of their own. Trust in government is at its lowest ebb in recent history. Political polarization is at its highest mark since the Great Depression. **Demographic and economic pressures will multiply in coming years** not only on the US, but more significantly on its key allies in Europe. The world will see a significant transformation of its power structure in the coming decades, all of **which will put great strain on the country’s civil-military relations. Thus, it is of critical importance that we discuss, address, and correct any flaws in this dynamic now before they reach crisis proportions in the years to come.**

**Tensions are inevitable but there’s no impact**

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In the 2010 bestselling book, Obama’s Wars, Bob **Woodward recounts** President Barack **Obama’s friction with his military chain of command as he sought options for ending the war in Afghanistan**.1 Woodward paints a compelling picture of a frustrated president who felt “boxed in” by his military commanders who were presenting him with only one real option—deploy 40,000 more troops for a comprehensive counterinsurgency strategy and an uncertain timeline. **The president and his civilian advisors could not understand why the military seemed incapable of providing scalable options** for various goals and outcomes to inform his decision-making. **Meanwhile the military was frustrated that their expert advice** regarding levels of force required for victory **were not being respected** (Woodward 2010).¶ **Such mutual frustration between civilian leadership and the military is not unique to** the **Obama** administration. **In the run-up to** the **Iraq** War in 2002, Secretary of Defense Donald **Rumsfeld famously chastised the military for its resistance to altering the invasion plan for Iraq**. The military criticized him for tampering with the logistical details and concepts of operations, which they claimed led to the myriad operational failures on the ground (Gordon and Trainor 2006; Ricks 2007; Woodward 2004). Later, faced with spiraling ethnic violence and rising U.S. casualties across Iraq, George W. Bush took the advice of retired four-star General Jack Keane and his think tank colleagues over the formal advice of the Pentagon in his decision to launch the so-called surge in 2007 (Davidson 2010; Feaver 2011; Woodward 2010).¶ **A similar dynamic is reflected in previous eras, from** John F. **Kennedy’s famous debates during the Cuban Missile Crisi**s (Allison and Zelikow 1999) **to** Lyndon **Johnson’s quest for options to turn the tide in Vietnam** (Berman 1983; Burke and Greenstein 1991), **and** Bill **Clinton’s lesser-known frustration with the military over its unwillingness to develop options to counter** the growing global inﬂuence of **al-Qaeda**.2 In each case, exasperated presidents either sought alternatives to their formal military advisors or simply gave up and chose other political battles. **Even** Abraham **Lincoln resorted to simply ﬁring generals until he got one who would fight his way** (Cohen 2002).¶ **What accounts for this perennial friction between presidents and the military** in planning and executing military operations? Theories about civilian control of the military along with theories about presidential decision making provide a useful starting point for this question. While civilian control literature sheds light on the propensity for friction between presidents and the military and how presidents should cope, it does not adequately address the institutional drivers of this friction. Decision-making theories, such as those focused on bureaucratic politics and institutional design (Allison 1969; Halperin 1974; Zegart 2000) motivate us to look inside the relevant black boxes more closely. **What unfolds are two very different sets of drivers informing the expectations and perspectives that civilian and military actors each bring to the advising and decisionmaking table.¶ This article suggests that the mutual frustration between civilian leaders and the military** **begins with cultural factors, which are** actually **embedded into the uniformed military’s planning system. The military’s doctrine and education reinforce a culture of “military professionalism,” that outlines a set of expectations about the civil-military decision-making process and that defines “best military advice” in very speciﬁc ways.** Moreover, **the institutionalized military planning system** is designed to produce detailed and realistic military plans for execution—and that will ensure “victory”—and **is** thus **ill suited to the rapid production of multiple options desired by presidents. The output of this system**, framed on specific concepts and definitions about “ends,” “ways,” “means,” and expectations about who provides what type of planning “guidance,” **is out of synch with the expectations of presidents and their civilian advisors, which in turn have been formed from another set of cultural and institutional drivers.¶ Most civilian leaders recognize that there is a principal-agent issue at work**, requiring them to rely on military expertise to provide them realistic options during the decision-making process. **But, their definition of “options” is framed by a broader set of political objectives and a desire to winnow decisions based, in part, on advice about what various objectives are militarily feasible and at what cost. In short, civilians’ diverse political responsibilities combined with various assumptions about military capabilities and processes, create a set of expectations about how advice should be presented** (and how quickly), how options might be defined, and how military force might or might not be employed. **These expectations are often considered inappropriate, unrealistic, or irrelevant by the military.** Moreover, as discussed below, **when civilians do not subscribe to the same “hands off” philosophy regarding civilian control of the military favored by the vast majority of military professionals,** **the table is set for what the military considers “meddling” and even more friction in the broken dialogue that is the president’s decision-making process.**¶This article identifies three drivers of friction in the civil-military decision-making dialogue and unpacks them from top to bottom as follows: The first, **civil-military, is not so much informed by theories of civilian control of the military as it is driven by disagreement among policy makers and military professionals over which model works best**. The second set of drivers is institutional, and reflects Graham Allison’s organizational process lens (“model II”). In this case, the “outputs” of the military’s detailed and slow planning process fail to produce the type of options and advice civilians are hoping for. Finally, the third source of friction is cultural, and is in various ways embedded into the first two. Powerful cultural factors lead to certain predispositions by military planners regarding the appropriate use of military force, the best way to employ force to ensure “victory,” and even what constitutes “victory” in the American way of war. These cultural factors have been designed into the planning process in ways that drive certain types of outcomes. That civilians have another set of cultural predispositions about what is appropriate and what “success” means, only adds more fuel to the flame.