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## Status Quo

#### For years the president has used his war powers authority to exclude women from ground forces introduced into hostilities

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NOTE: THE POLITICS OF BIOLOGY: EVOLUTIONARY BIOLOGY AND THE EXCLUSION OF WOMEN FROM COMBAT \*

[\*89] In 1993, Congress passed the 1994 Defense Authorization Act (DAA) and repealed the final remnants of the exclusion policy in the United States Code, which included the prohibition of women from combat vessels. n46 The DAA eliminated the last two surviving prohibitions from CEL: the ban of women on warships and combat aircrafts. n47 In doing so, however, Congress did not impart complete freedom on women to occupy combat positions; instead, it merely removed the explicit prohibition of women in combat, shifting the authority to exclude onto the services themselves. Furthermore, Congress favored keeping the combat restriction on women -- so much so that it included language in the DAA instructing the Secretary of Defense to inform Congress before any service changed its exclusion policy. n48 In the report accompanying the DAA, Congress stated its plans to "exercise close oversight on these or any other planned changes to the assignment policy for women, particularly if these changes could result in women serving in units whose mission requires routine engagement in direct combat on the ground." n49 Nonetheless, in 1993, Secretary of Defense Les Aspin directed the different military services to open up as many service positions (known as Military Occupational Specialties, or MOSs) as possible to women and to research future opportunities for women in the military. n50 However, he explicitly allowed them to continue prohibiting women from "units engaged in direct combat on the ground, assignments where physical requirements are prohibitive and assignments where the costs of appropriate berthing and privacy arrangements are prohibitive." n51 He also permitted the services to "propose additional exceptions, together with the justification for such exceptions, as they deem appropriate." n52 Because the latter two grounds for excluding women, financial cost and additional exceptions, are matters of judgment, their boundaries are so elastic that they may be broken and even revoked. However, the first permissive [\*90] restriction on women, the prohibition of women from front-line combat, remains a relatively bright-line rule. n53

#### Although the DOD formally repealed the combat exclusion, the maintenance of physical requirements means that women will continue to be excluded from those forces introduced into hostilities

Peralta 13 EYDER PERALTA, NPR January 23, 2013 Panetta Is Lifting Ban On Women In Combat Roles

http://www.npr.org/blogs/thetwo-way/2013/01/23/170093351/panetta-is-lifting-ban-on-women-in-combat-roles

Secretary of Defense Leon Panetta has decided to lift a ban that prohibited women from serving in combat, a congressional source tells NPR's Tom Bowman. The move opens up thousands of front-line positions. Panetta is expected to announce the decision along with the Chairman of the Joint Chiefs of Staff on Thursday. Citing "senior defense officials," the AP adds: "The groundbreaking move recommended by the Joint Chiefs of Staff overturns a 1994 rule banning women from being assigned to smaller ground combat units. Panetta's decision gives the military services until January 2016 to seek special exceptions if they believe any positions must remain closed to women." Back in November, four servicewomen along with the American Civil Liberties Union . U.S. Army nurses rest on sandbags at Cam Ranh Bay in South Vietnam, July 1965. Women, the lawsuit claimed, were already serving in combat roles, but were not receiving recognition for it. The ACLU said the combat exclusion kept women from more than 200,000 positions. Perhaps a prelude, last year, the military opened 14,500 positions to women and lifted a rule that prohibited women from living with combat units. Citing a "senior defense official," the change won't happen immediately. CNN explains: "The Army and Marine Corps, especially, will be examining physical standards and gender-neutral accommodations within combat units. Every 90 days, the service chiefs will have to report back on their progress. The move will be one of the last significant policy decisions made by Panetta, who is expected to leave in mid-February. It is not clear where former Sen. Chuck Hagel, the nominated replacement, stands, but officials say he has been apprised of Panetta's coming announcement. "'It will take awhile to work out the mechanics in some cases. We expect some jobs to open quickly, by the end of this year. Others, like Special Operations Forces and Infantry, may take longer,' a senior defense official explains. Panetta is setting the goal of January 2016 for all assessments to be complete and women integrated as much as possible." This story is breaking. We'll update this post with reaction and more details, so make sure to refresh this page. Update at 5:20 p.m. ET. 'Fantastic News': Carey Lohrenz, a former Navy Lieutenant and one of the first women to fly F-14s on air craft carriers, tells our Newscast unit that this is "fantastic news," but it's really just catching up with the reality on the ground. "We have women in combat roles right now. We are just not able to promote them," she said. "They're on the ground in Iraq; they're on the ground in Afghanistan. This is strictly formalizing and recognizing what their contributions currently are." Sen. Mazie K. Hirono, a Democratic member of the Armed Services Committee from Hawaii, said the move was a "great step toward equality." "I know that the women who currently serve in the military think they should be treated the same as any other servicemember," Hirono said in a statement. "Women serving in combat roles will strengthen our national security, and as a member of the Armed Services Committee, I will work closely with military and administration officials to see this change through." Update at 4:14 p.m. ET. Infantry Troops: As we alluded to earlier, the implementation of this new policy will be complex. an important caveat saying that while this is the "largest expansion yet of women in combat roles," "defense officials said they don't expect the change to result in women being allowed to serve as infantry troops."

#### A new report to congress confirmed that very few women will be able to meet the current standards

Washington Times, 13 (Few women will qualify for land combat: report. http://www.washingtontimes.com/news/2013/feb/24/report-few-women-will-qualify-for-land-combat-loop/?page=all)

A new report to Congress predicts that relatively few women will be able to perform land combat tasks on the same level as men, and it says the Pentagon’s pledge to maintain “gender-neutral” physical standards has a loophole. Meanwhile, the Marine Corps, viewed as the service most resistant to opening the infantry to women, will test male and female troops together in strength and endurance to determine how women can perform ground warfare, according to an internal memo obtained by The Washington Times. The congressional report and the Marine Corps memo come as pro-defense conservatives are exploring ways to ensure that the Obama administration does not ease rigorous standards as a way to make sure women qualify for direct combat jobs. When Defense Secretary Leon E. Panetta last month removed the policy prohibiting women from serving in direct combat units — infantry, armor and special operations — he vowed not create two standards, citing the 1993 Gender-Neutral Occupational Performance Standards as the guide.

## Plan Text

#### Plan: The United States federal government should statutorily prohibit the exclusion of women from the Armed Forces introduced into hostilities.

## Patriarchy

#### The military will rely on physical requirements that presume a masculine military and subordinate women to continue the exclusion of women from combat roles.

Goodell 10 (Maia Goodell, Master of Laws from Yale Law School, a J.D. from the UMich, partner at Vladeck, Waldman, Elias & Engelhard, she was a Surface Warfare Officer in the U.S. Navy, serving on the USS Abraham Lincoln and USS Port Royal. She is a member of the Committee on Military Affairs and Justice of the New York City Bar. Seattle University Law Review Fall, 2010 34 Seattle Univ. L. R. 17 ARTICLE: Physical-Strength Rationales for De Jure Exclusion of Women from Military Combat Positions)

Task definition is the clearest indicator that all of the thinking behind physical-strength arguments assumes that a male military member is normal and a female military member must be accommodated with "special" clothing, equipment, and procedures. This section has aimed to show that standards for job performance can remain high despite task redefinition. The failure to explore this possibility indicates that a normative belief, rather than an inexorable reality, is driving the physical-strength rationale for de jure exclusion of women from the military. IV. THE NORMATIVE BASIS FOR DE JURE EXCLUSION A pattern emerges from these four problems. What appears to be a biological truth is actually better understood as a normative belief that the military's job is in some way peculiarly suited to men. It is not that women's bodies do not measure up against an objective standard, but that the standard is defined so women do not fit it. This Part examines the normative claims exposed as underlying the physical-strength arguments. In pre-Rostker cases, rejecting men's equal protection challenges to the draft, courts made the underlying normative rationale quite clear: "If a nation is to survive, men must provide the first line of defense while women keep the home fires burning." n203 Subsequent cases cite this policy as justification for otherwise unsupported claims about "obvious" innate differences in physical strength, rather than providing factual support for actual differences as a justification for the policy. n204 In contrast, a Montana district court actually examined the physical-strength evidence and rejected the "actual differences" defense. The judge found: "There is simply no basis for concluding that all or even a significant number of women are incapable of serving in the military. This statement is true even assuming they would be placed in combat roles." n205 As a society, we still seem to accept the belief that it is the reality [\*48] of women's bodies that limits their participation in the military. As we have seen, however, that belief is deeply flawed--for example, consider again the simple stereotyping analysis that asks why women would be excluded de jure. The exclusion instead relies on an understanding that the kinds of things the military does are, and should be, appropriately within the male realm. But in incorrectly presupposing that men are, literally, strong, and women are, literally, weak, competence is confused with masculinity, and incompetence is confused with femininity. This presupposition has an important corollary: masculinity becomes a mark of power and status--even in all-male settings. n206 It goes beyond stereotyping, however, because in believing men are stronger, we both train them to be stronger, and we create a military designed around their abilities--in other words, we make the belief real. Epistemologist Sally Haslanger has termed this cognitive mechanism "assumed objectivity." n207 Members of a powerful group ascribe characteristics to a weak group in a way that makes the differences real, and in a vicious cycle, the ascribed characteristics help make the weak group weak. n208 For example, slave owners might ascribe a lack of intelligence to slaves, claim that this characteristic is innate, use this professed belief to justify a lack of education, and in this way make real a difference that keeps the slave owners in power. n209 It works the same way for sex. n210 First, observed regularities--women's lower scores on physical-strength tests--are taken to be a consequence of women's weak nature. Second, women's weak nature is argued to constrain decisions around their inclusion in certain military jobs. Haslanger argues that, while there is not necessarily anything wrong with conforming action to the nature of things, in the context of gender, such constraints reinforce a distorted view of reality. n211 This view leads to the third, critical step of assumed objectivity, contributing "the element of illusion--the masking of social/moral facts as natural facts." n212 The starting position that purports to be neutral in fact presupposes the masculinity of the military. n213 [\*49] This distortion is counterproductive for women and for men. Women lose by being defined as incompetent to serve in combat roles just because they are women. The military is a central institution of national and international power. It has a vital role in the international rule of law. The physical-strength argument reveals an underlying normative distinction between combatant and noncombatant that is gendered and hierarchical. Women must shatter this distinction or risk permanent subordination. If women want to invoke state protection from violence, as we should, the institution that provides that protection cannot legally define women as unequal. If the arguments to exclude women from the military are less than empowering to women, they are less than flattering to men: "Our ultimate marching orders," writes Stephanie Gutmann, "come from the imperative to extend our species, and on some very primitive level we 'understand' that eggs are expensive and sperm--that is men's bodies, which throughout history have been treated like so much matchwood--are cheap." n214 Gutmann's willingness to characterize military men, who are disproportionately rural and black, n215 as disposable and oversexed is particularly surprising given her explicit recognition of the class attitudes that lead political liberals to look down on the military. n216 Men lose by being constrained to the role of oversexed aggressors, on pain of losing their identity as men. n217 As bell hooks puts it: "Men are not exploited or oppressed by sexism, but there are ways in which they suffer as a result of it." n218 The United Nations Secretary General found that "[t]here is . . . significant diversity among men, shaped by local context and cultures." n219 Even among men, diversity of ability is an important aspect of military teams, n220 yet it is threatened when a single set of characteristics conforming to beliefs about masculinity are confused with military ability. [\*50] The question becomes not whether equality should be accommodated at the expense of military readiness, but how much military readiness can be sacrificed to adhere to inaccurate views about women's and men's ability. n221 Analyzing the physical-strength rationale for de jure exclusion of women from combat exposes the distorted lens demanding that men be strong and women be weak. This distorted lens compromises the military mission on many levels. It leads to excluding available personnel who not only would be capable of doing the job, but also might do it better. More profoundly, the mission of the military is to protect and defend our democratic society. This mission is compromised if it is achieved through subordination of a segment of that democratic society. n222 To echo President Obama, it is time to repeal another law and regulation "that denies . . . Americans the right to serve the country they love because of who they are": n223 The prohibition on women serving in combat.

#### Isolated physical requirements are not a good measure of actual ability – emphasizing those measures is biased

Goodell 10 Maia Goodell, partner at Vladeck, Waldman, Elias & Engelhard, she was a Surface Warfare Officer in the U.S. Navy, serving on the USS Abraham Lincoln and USS Port Royal. She is a member of the Committee on Military Affairs and Justice of the New York City Bar. Seattle University Law Review Fall, 2010 34 Seattle Univ. L. R. 17 ARTICLE: Physical-Strength Rationales for De Jure Exclusion of Women from Military Combat Positions

Indeed, real life examples show that, despite the lower scores on isolated tasks, women performed well in the jobs for which those same studies were meant to apply. For example, in actual damage control situations, no one has report-ed any problems with women's performance. The Presidential Commission appointed by President George H.W. Bush found that "200 women performed well in an actual firefighting emergency aboard a Navy ship in 1988." n173 The difference between the theoretical [\*43] expectation that women are unable to perform the job (because some women were unable to perform some tasks) and actual results in a real life emergency can probably be explained by the fact that women possess many unmeasured abilities. For instance, isolated studies do not measure the critical endurance that is required for crews to fight fires for days on end.

Women have a number of advantages that are useful in the military context. n174 It is important to realize that generalizations about these advantages, even when intended to benefit women, run the risk of accepting differences as natural--an acceptance, that, as we have seen, is neither empirically supported nor ultimately empowering to women. Studies can only measure women's bodies as they come to be in conditions of today's imperfectly equal society. n175 With this in mind, we can still note findings suggesting that women today have physical characteristics that warrant just as much study as potentially important to various military tasks. Survey respondents in the Navy study reported that restricted space made twenty of fifty tasks very difficult, n176 suggesting that a smaller stature may actually be an ad-vantage. Mitchell admits that women are less susceptible to altitude sickness and cold. n177 Women have a higher speed-to-body-size ratio in sprint events, suggesting that they pack power more efficiently. n178 Women's greater body fat contributes to streamlining and cold resistance, both of which are advantages in swimming. n179

Endurance is another area in which women may have an advantage. Several studies have found that, in submaximal performance, women's muscles have significantly slower fatigue and faster recovery than men's do. n180 A 1999 study concluded this result is likely due to different muscle [\*44] composition. n181 Women also have higher percentages of intramuscular fat and may burn it more efficiently, possibly contributing to their endurance for submaximal (less than the maximum of which an individual is capable) work. n182 Other military forces have taken advantage of women's greater capacity for endurance. n183 For instance, the Vietnamese military put women's greater endurance to practical use when it assigned women to carry supplies because they had greater stamina and complained less of the drudgery. n184 They earned the description of "water buffalo of the Revolution." n185

Physical ability is substantially more complex than a single unified "strength" trait. If physical abilities are to justify selections for job performance, one cannot pick and choose which abilities to measure by sex, not job, correlation. n186 By failing to justify trait selection that advantages men as job-related, critics reveal that they are defining "strength" around men's abilities. They thus attribute large observed differences on selective measures to a natural "physical strength." However, it is the strategic selection of the measures, not the job requirements, that leads to the dramatic gap

#### These tests are attempts to ignore the female experience and difference

Davis 8 (Karen D. Davis, Defence Research and Development Canada/CORA, October 2008, “Gender Neutrality and Sexual Difference: Limits to Cultural Intelligence in the Canadian Forces,” http://www.cso.nato.int/pubs/rdp.asp?RDP=RTO-MP-HFM-158 //nimo)

In many military situations, gender neutral, gender free, or gender blind approaches are often effective as well as necessary in demonstrating that all members of a military team are equally important to the team as well as sharing the load in an equitable manner. However, this approach is frequently adopted to ensure that servicemen are not frustrated by unwarranted attention to their female counterparts, and to assist women in blending in or integrating into the team without undue attention. Neutral perspectives break down when assumptions are made about the extent to which the experiences and perspectives of team members are shared beyond their immediate role on the team. That is, regardless of and because of gender and sex, the experiences that men and women bring to the organization will differ depending upon an endless array of factors, including gender role expectations in their formative years, race, class, religion, ethnicity, sexual orientation, abilities, interests, etc. In addition, there are undeniable physiological differences among women and men and the various abilities that such diversity brings to the team. The challenge then is to address gender through a gender inclusive approach that abandons socially constructed assumptions about diversity (or lack of) among women and men.

#### Ignorance of sexual difference causes physical and mental annihilation of difference and of life itself

**Irigaray 94** (Luce, Belgian feminist, philosopher, linguist, psychoanalyst, sociologist and cultural theorist, “Thinking the difference: for a peaceful revolution,” pg 4-7, 1994)

What does it mean for our entire culture to be threatened with destruction? There are, of course, declared stakes connected with threats of war. According to the types of discourse whose economy is at issue here, such threats are the sole means of maintaining international equilibrium. I shall come back to this point. Huge amounts of capital are allocated to the development of death machines in order to ensure peace, we are told. This warlike method of organizing society is not self-evident. It has its origin in patriarchy. It has a sex. But the age of technology has given weapons of war a power that exceeds the conflicts and risks taken among patriarchs. Women, children, all living things, including elemental matter, are drawn into the maelstorm. And death and destruction cannot be associated solely with war. They are part of the physical and mental aggression to which we are constantly subjected. What we need is an overall cultural transformation, not just a decision about war per se. Patriarchal culture is based on sacrifice, crime and war. It is a culture that makes it men's duty or right to fight in order to feed themselves, to inhabit a place, and to defend their property. From time to time, patriarchy must make decision concerning war, but that is far from what is required to ensure a cultural transformation. Mankind [le peuple des hommes] wages war everywhere all the time with a perfectly clear conscience. Mankind is traditionally carnivorous, sometimes cannibalistic. So men must kill to eat, must increase their domination of nature in order to live or to survive, must seek on the most distant stars what no longer exists here, must defend by any means the small patch of land they are exploiting here or over there. Men always go further, exploit further, seize more, without really knowing where they are going. Men seek what they think they need without considering who they are and how their identity is defined by what they do. To overcome this ignorance, I think that mankind needs those who are persons in their own right to help them understand themselves and find their limits. Only women can play this role. Women are not genuinely responsible subjects in the patriarchal community. That is why it may be possible for them to interpret this culture in which they have less involvement and fewer interests than do men, and of which they are not themselves products to the point where they have been blinded by it. Given their relative exclusive from society, women may, from their outside perspective, reflect back a more objective image of society than can men. Moreover, in theory, women should not be in a hierarchical relationship to men. All other types of minorities potentially are. It is with a thoroughly patriarchal condescension, either unconscious or cynical, that politicians and theoreticians take an interest in them, while exploiting them, with every possible risk of the master-slave relationship being overturned. This dialectic – or absence thereof – is built into father-son relationships, and has been since the inception of patriarchy. It is doomed to failure as a means of liberation and peace because it is based on (1) lines of descent insufficiently counterbalanced by a horizontal relationship between the genders and (2) exclusively male lines of descent making any kind of dialectic between male and female ancestries and masculine and feminine genders impossible. The possibility of sex-specific cultural and political ethics is our best chance today. The world's economic and religious equilibrium is precarious. Moreover, the development of technology is subjecting our bodies to such trials that we are threatened with physical and mental annihilation, that our living conditions leave us no time to rest or think, whatever real leisure time we may have, and that we are continually overwhelmed, forgetful, distracted. Men's science is less concerned with prevention or the present than with curing. For objective reasons of accumulation of property, for reasons of the subjective economy of the male subject, it allows disorder and pollution to grow, while funding various types of curative medicine. Men's science helps destroy, then attempts to fix things up. But a body that has suffered is no longer the same. It bears the traces of physical and moral trauma, despair, desire for revenge, recurrent inertia. The entire male economy demonstrates a forgetting of life, a lack of recognition of debt to the mother, of maternal ancestry, of the women who do the work of producing and maintaining life. Tremendous vital resources are wasted for the sake of money. But what good is money if it is not used for life? Despite policies that encourage the birth rate for economic reasons, or sometimes for religious ones, destroying life seems to be as compulsory as giving life.

#### Annihilation of sexual difference comes before all impacts – aff represents a shift away from militaristic violence

Cuomo 96 (Chris J. Cuomo, “War Is Not Just an Event: Reflections on the Significance of Everyday Violence,” Hypatia, Vol. 11, No. 4, Women and Violence (Autumn, 1996), pp. 30-45, http://www.jstor.org/stable/3810390 //nimo)

In “Gender and ‘Postmodern’ War,” Robin Schott introduces some of the ways in which war is currently best seen not as an event but as a presence (Schott 1995). Schott argues that postmodem understandings of persons, states, and politics, as well as the high-tech nature of much contemporary warfare and the preponderance of civil and nationalist wars, render an event» based conception of war inadequate, especially insofar as gender is taken into account. In this essay, I will expand upon her argument by showing that accounts of war that only focus on events are impoverished in a number of ways, and therefore feminist consideration of the political, ethical, and ontological dimensions of war and the possibilities for resistance demand a much more complicated approach. I take Schott’s characterization of war as presence as a point of departure, though I am not committed to the idea that the constancy of militarism, the fact of its omnipresence in human experience, and the paucity of an event-based account of war are exclusive to contemporary postmodern or postcolonial circumstances] Theory that does not investigate or even notice the omnipresence of militarism cannot represent or address the depth and specificity of the every» day effects of militarism on women, on people living in occupied territories, on members of military institutions, and on the environment. These effects are relevant to feminists in a number of ways because military practices and institutions help construct gendered and national identity, and because they justify the destruction of natural nonhuman entities and communities during peacetime. Lack of attention to these aspects of the business of making or preventing military violence in an extremely technologized world results in theory that cannot accommodate the connections among the constant presence of militarism, declared wars, and other closely related social phenomena, such as nationalistic glorifications of motherhood, media violence, and current ideological gravitations to military solutions for social problems. Ethical approaches that do not attend to the ways in which warfare and military practices are woven into the very fabric of life in twenty-first century technological states lead to crisis»based politics and analyses. For any feminism that aims to resist oppression and create alternative social and political options, crisis»based ethics and politics are problematic because they distract attention from the need for sustained resistance to the enmeshed, omnipresent systems of domination and oppression that so often function as givens in most people’s lives. Neglecting the omnipresence of militarism allows the false belief that the absence of declared armed conflicts is peace, the polar opposite of war. It is particularly easy for those whose lives are shaped by the safety of privilege, and who do not regularly encounter the realities of militarism, to maintain this false belief The belief that militarism is an ethical, political concern only regarding armed conflict, creates forms of resistance to militarism that are merely exercises in crisis control. Antiwar resistance is then mobilized when the “real” violence finally occurs, or when the stability of privilege is directly threatened, and at that point it is difficult not to respond in ways that make resisters drop all other political priorities. Crisis-driven attention to declarations of war might actually keep resisters complacent about and complicitous in the general presence of global militarism. Seeing war as necessarily embedded in constant military presence draws attention to the fact that horrific, state-sponsored violence is happening nearly all over, all of the time, and that it is perpetrated by military institutions and other militaristic agents of the S[8[€. Moving away from crisis-driven politics and ontologies concerning war and military violence also enables consideration of relationships among seemingly disparate phenomena, and therefore can shape more nuanced theoretical and practical forms of resistance. For example, investigating the ways in which war is part of a presence allows consideration of the relationships among the events of war and the following: how militarism is a foundational trope in the social and political imagination; how the pervasive presence and symbolism of soldiers/warriors/patriots shape meanings of gender; the ways in which threats of state-sponsored violence are a sometimes invisible/sometimes bold agent of racism, nationalism, and corporate interests; the fact that vast numbers of communities, cities, and nations are currently in the midst of excruciatingly violent circumstances. lt also provides a lens for considering the relationships among the various kinds of violence that get labeled “war.” Given current American obsessions with nationalism, guns, and militias, and growing hunger for the death penalty, prisons, and a more powerful police state, one cannot underestimate the need for philosophical and political attention to connections among phenomena like the “war on drugs," the “war on crime,” and other state-funded militaristic campaigns. I propose that the constancy of militarism and its effects on social reality be reintroduced as a crucial locus of contemporary feminist attentions, and that feminists emphasize how wars are eruptions and manifestations of omnipresent militarism that is a product and tool of multiply oppressive, corporate, technocratic states? Feminists should be particularly interested in making this shift because it better allows consideration of the effects of war and militarism on women, subjugated peoples, and environments. While giving attention to the constancy of militarism in contemporary life we need not neglect the importance of addressing the specific qualities of direct, large-scale, declared military conflicts. But the dramatic nature of declared, large-scale conflicts should not obfuscate the ways in which military violence pervades most societies in increasingly technologically sophisticated ways and the significance of military institutions and everyday practices in shaping reality. Philosophical discussions that focus only on the ethics of declaring and fighting wars miss these connections, and also miss the ways in which even declared military conflicts are often experienced as omnipresent horrors. These approaches also leave unquestioned tendencies to suspend or distort moral judgement in the face of what appears to be the inevitability of war and militarism.

#### Exclusion of women constructs female subordination

Vojdik 5 Valorie K. Vojdik , Associate Professor of Law, West Virginia University College of Law. Alabama Law Review Winter, 2005 57 Ala. L. Rev. 303 ARTICLE: Beyond Stereotyping in Equal Protection Doctrine: Reframing the Exclusion of Women from Combat

By moving beyond stereotyping, the argument against judicial deference to the military's discriminatory policy becomes substantially stronger. As Judge Fletcher observed in Philips v. Perry, judicial deference to a military policy that is based upon hatred of, and prejudice toward, an excluded class of people is unjustified. n404 As Kenneth Karst has argued, the institutional opposition to women in direct ground combat is no different than the military's former policy of excluding African-Americans or homosexuals. n405 [\*348] While each involves a classificatory scheme, each enforces a status hierarchy that preserves the military for white, heterosexual males. n406

The harassment and violence toward military women illustrates the persistent hostility and denigration of female troops. By shifting the focus from gender stereotyping to the institutional practices within the military that construct warriors as male and masculine, the direct ground combat exclusion appears less like a mistake in classification and more like a fundamental means of enforcing the status of military women as second-class citizens. The military's discriminatory policy, like the use of gender-based peremptory challenges in J.E.B. v. Alabama, perpetuates the historical exclusion of women from the military and stigmatizes women as different and inferior, unworthy of the role of warrior. n407

The combat exclusion constructs and preserves a gendered system of labor that reflects and perpetuates male supremacy and female subordination. In this sense, the combat exclusion functions in the same way as the anti-miscegenation laws struck down by the Supreme Court in Loving v. Virginia. In Loving, the Supreme Court relied on its anti-subordination doctrine to strike down Virginia's anti-miscegenation law as violating the right to equal protection. n408 The Court rejected the notion of formal equality advanced by the state defendant that the law prohibited interracial marriages by both blacks and whites and therefore was racially neutral because it treated all persons equally without regard to their race. n409 Prohibitions against interracial marriage, the Court held, were part and parcel of maintaining a system of racial distinction that perpetuated the subordination of blacks under the law. n410 Like the anti-miscegenation statute in Loving, the categorical exclusion of women from direct ground combat demeans and stigmatizes women as different and inferior.

A legal challenge to the combat exclusion, as illustrated above, does not merely vindicate the goals of formal equality. The constitutional wrong is not simply that the military has mistakenly concluded that no woman is capable of engaging in combat (although the exclusion clearly reflects overly broad gender stereotypes), but that the military, through a range of institutional practices, constructs and preserves a gendered caste system. By [\*349] making the military as an institution visible, the hostility toward women as a group becomes plain to see. Rather than accept the military's gender norms, opening the doors to women in combat fundamentally challenges the myth of masculinity inside one of the most powerful institutions that continue to deny women equal citizenship status.

#### The full integration of women in the military prevents sexual assault – it is the only way to solve the cause of the problem

Haring, 13 (Army Col. Ellen Haring is on the staff of the Army War College. To stop sexual assault against women in the US military, add more women. http://www.csmonitor.com/Commentary/Opinion/2013/0624/To-stop-sexual-assault-against-women-in-the-US-military-add-more-women)

Last week, the US military services announced their plans to integrate women in combat specialties. Although it may sound counterintuitive, the full integration of women in the armed forces – in all roles, at all levels, and in far greater numbers – will do more to stop sexual assault against them than any other measure. It will help more, for instance, than creating a new cadre of lawyers (called “special victims counsels”) to assist service members who say they are victims of sexual assault – a program now underway in the Air Force. It will help more than reforming the prosecution of sexual misconduct cases so that victims do not fear reprisal from commanders – an issue the Senate Armed Services Committee has grappled with. Both of these efforts are worthwhile, but they address the effects of the scourge. They do not get to its cause, which is the hyper-masculine, male-dominant culture of the military. To do that, the military must create a far more welcoming atmosphere for women, who make up only 15 percent of the armed services. It must welcome and value them as equal partners, and it must greatly increase their numbers. As Joint Chiefs of Staff Chairman Gen. Martin Dempsey commented in January, when the Defense Department lifted the ban on women in combat, having “separate classes” of male “warriors” and everyone else creates an environment ripe for sexual assault and harassment. The more that the Pentagon “can treat people equally, the more likely they are to treat each other equally.” In May, the Pentagon said that the number of sexual assaults reported by service members increased to 2,949 last year, more than double those reported in 2004 – perhaps reflecting more willingness to report under the Pentagon’s sex-assault prevention and response program, which began in 2005. Many more incidents go unreported. According to a Pentagon survey, last year about 26,000 service members (6.1 percent of females and 1.2 percent of males) said they experienced unwanted sexual contact – which may range from rape to abusive sexual contact. And yet, we are stunned by the leadership’s continued misapprehension of how a “culture change” could happen. Too many generals seem to think the solution starts with the rank and file, when it must start at the top – with them. In a recent Washington Post commentary on the need to reform military culture, Army Maj. Gen. Robert Scales concluded that “so long as the culture of the rank and file rejects the presence of women as their professional partners, nothing will change.” Similarly, it was disturbing last week to see Maj. Gen. Bennet Sacolick, of Special Operations Command, haltingly discuss the integration of women into elite services such as the Navy SEALs and Army Rangers. Full combat integration is now required across the services by 2016, with exceptions having to be approved by the secretary of Defense. Yet Major General Sacolick was not able to commit to any integration in the elite forces. He wants first to survey the rank and file on “social implications,” and “behavioral and cultural” aspects of integration. The only reason to hold back women soldiers – whom Sacolick at one point called “young girls” – is a specific finding that they cannot do the job. Resistance from the rank and file has no place in a decision to keep an occupation or unit closed to women. It is much easier to look for external sources of a problem than to examine ourselves. Today’s military generals helped shape and lead an institution that enables sexually abusive men, that glorifies a culture of male dominance, and that has only allowed women in at the margins and in support roles. Numbering only 200,000, compared to 1.2 million men, women in the armed services face exclusionary practices by the dominant group. Those practices range from name calling, to misogynistic jokes, to more extreme behaviors such as harassment and assault. Token groups move away from this condition when they reach a “critical mass” – 33 percent of the total population, according to experts. Prof. Robin J. Ely, at the Harvard Business School, says that when women reach this level, the organization stops seeing them as women and begins to evaluate them on the basis of their capabilities. She finds that critical mass must also be achieved at the top level for its benefits to be realized – a point that the military’s top brass must understand and act on. Leadership must move swiftly to fully open up the service academies that train officers. While women outnumber men at almost all colleges and universities in the United States – as of 2011, women received 56 percent of all bachelor’s degrees – the number of women with bachelor’s degrees from the four military taxpayer-funded academies is remarkably low – because admission rates are low. Only the Coast Guard Academy breaks the “critical mass” barrier, with women accounting for 36 percent of its admissions last year. Female admissions for the other academies has changed little from the first integrated classes: 24 percent at the Naval Academy, 23 percent at the Air Force Academy, and 16 percent at the Military Academy at West Point. West Point officials have been saying that their classes must mirror the Army’s population, which is comprised of roughly 15 percent women. But this is no way to lead the necessary cultural shift. For guidance on how to make an improvement, West Point need only look at the Army ROTC program, where 21 percent of the cadets in 2011 were women. In high schools, about 45 percent of the JROTC program is female. If the military truly hopes to solve the problem of sexual assault, then the leadership must genuinely and publicly accept women as fully capable and must actively seek to increase the number of qualified women in the services. Women’s full integration in combat and greater recruitment are not problems to be solved, but an opportunity to be celebrated. Only then will the military culture change to one in which all servicemembers are valued team players.

#### Women in combat challenges gender stereotypes used to keep women subordinate

Vojdoik 5 Valorie K. Vojdik , Associate Professor of Law, West Virginia University College of Law. Alabama Law Review Winter, 2005 57 Ala. L. Rev. 303 ARTICLE: Beyond Stereotyping in Equal Protection Doctrine: Reframing the Exclusion of Women from Combat

Litigation strategies that illuminate the particular practices within social institutions that subordinate women are well-suited to enrich the courts' understanding of discrimination. A legal challenge to the continued exclusion of women from direct ground combat is one example of this strategy. While the combat exclusion can easily be challenged as improper gender stereotyping, it is better framed as an institutional practice that constructs warriors as male and masculine while demeaning women. Challenging the combat exclusion, I argue, shifts judicial attention from stereotyping to concrete practices of subordination.¶ My argument proceeds in three parts. Part I analyzes the Court's gender equality jurisprudence in Virginia and other recent decisions to examine the extent to which the Court has considered anti-subordination concerns and values within its anti-classification framework.¶ Part II addresses the question of how to enrich the Court's understanding of gender discrimination beyond stereo-typing. In this section, I draw upon sociological theories of gender that focus on the social practices within institutions that construct and reinforce gender inequality. Several legal scholars have relied upon this literature to enrich the courts' understanding of the mechanism and harm of sexual harassment in the workplace. n16 This scholarship offers a particu-larized account of sexual harassment as a means of devaluing and subordinating women in the workplace, dissolving the dichotomy between anti-classification and anti-subordination concerns.¶ In Part III, I illustrate how this approach could be used to frame a legal challenge to the exclusion of women from direct ground combat and shift the attention of courts from gender stereotyping to the institutional subordination of women in the military. The Department of Defense (DOD) continues to exclude women from direct ground combat, n17 denying women access to 15% of total available positions in the armed forces, regardless of whether or not they are qualified. n18 To justify its categorical exclusion, the [\*306] military relies on gender stereotypes: women lack the physical and emotional strength to fight and kill; their presence will impair male bonding and unit cohesion; their inte-gration will reduce "military effectiveness." n19¶ Although the direct ground combat exclusion can be easily framed as a case of impermissible stereotyping, a legal challenge should focus on the institutional practices within the military that construct warriors as male and masculine, and simultaneously denigrate women and femininity. n20 The ground combat exclusion is not merely a product of mistaken gender stereotypes; it rests upon the military's desire to define and preserve the identity of the warrior as male and masculine. n21 As General Robert H. Barrow, a former commandant of the Marine Corps, explained: "War is a man's work. . . . When you get right down to it, you have to protect the manliness of war." n22¶ A legal challenge to the direct ground combat exclusion does not merely vindicate formal equality or anti-classification principles. By looking closely at the practices inside the military as an institution, the exclusion of women from direct ground combat can be seen as a means of subordination rather than a classificatory error. Like the military's now-discredited policy of racial segregation, the exclusion rationalizes the inequality and subordination of women -- not only in the military, but within American society as well. This type of analysis of institutional practices that denigrate and subordinate women can be used to enrich judicial understanding of gender discrimination as not merely an error in classification, but also as part of a system of subordination that reflects hostility toward treating women as equals.

#### Plan key to women promotion in the military

Reed, 99 (Brian J. Gender Integrated Basic Training: A Theoretical Analysis of the Continuing Debate. . Minerva 17.2 (Jun 30, 1999): 18. )

The history of women in the military shows their participation to be both limited and auxiliary. Although many women were recruited in World War II, their service was primarily restricted to traditional female roles and positions behind the lines that freed men for combat (DeFleur 1985). However, immediately before and after male conscription was abolished, a number of important gender barriers within the military were removed. Women entered the Reserve Officer Training Corps on civilian college campuses in 1972; the first female cadets were admitted to the service academies in 1976 (Moskos 1993). In 1978, Congress abolished the separate Women's Auxiliary Corps (WAC), and virtually all assignments except direct combat roles were opened to women. Women were still prohibited from serving in combat arms units (infantry, armor, field artillery) and in warships, bombers, and fighter planes. Combat-linked roles are the primary avenue for advancement in the military. Accordingly, limiting women's participation in these roles restricts their chances to move ahead. In the wake of the Gulf War, the combat exclusion policy came under increased political pressure for reevaluation. Congress lifted the ban on women in combat planes, and women are now eligible to fly all types of combat aircraft, both fixed-and rotary-wing (Moskos 1993). Further policy changes have allowed the assignment of women to maneuver (in particular, infantry and armor) brigade headquarters.

#### Combat experience is specifically necessary to attach to resumes for promotion

Mac Donald 13 (Heather Mac Donald, January 25, 2013, National Review Online, “Women and 'Appropriate' Combat Standards,” http://www.manhattan-institute.org/html/miarticle.htm?id=8880#.Umv7y5TwKb8 //nimo)

Equally irrelevant are the stories of individual acts of heroism by women pilots, photographers, or MPs. Without question, women can act with bravery, foresight, and tactical intelligence. The issue is their effect on maximal combat capacity when introduced wholesale into combat units. The overwhelming reason advanced for the lifting of the combat ban is to improve women’s chances of promotion within the Pentagon, by giving them the opportunity to show combat duty on their resume. That is a feminist rationale. No one has advanced the argument that all-male fighting forces have been handicapped in their war-making abilities over the millennia because they did not include women in their ranks.

#### The positions women hold in the military affects the perception of their role in broader society – only ending combat exclusion solves

Reed, 99 (Brian J. Gender Integrated Basic Training: A Theoretical Analysis of the Continuing Debate. . Minerva 17.2 (Jun 30, 1999): 18. )

In the military, social definition pertains to the structural ways in women are permitted to serve only in certain jobs and units. As a result, the perception is created that women are part of a special protected subclass who are exempt from direct combat roles and, therefore, are not sharing the same risks as men (Devilbiss 1985). However, as the military opens up more jobs for women in nontraditional roles, the effect of women's social visibility in these jobs and the social impact of their performance (determined by how well they do) become more critical in shaping military ideology. In a previously all-male environment, a woman's social visibility is very high. The introduction of women into the male-dominated "fraternity" of fighter pilots provides a good example. The social impact of gender consciousness is related to the social visibility women experience in this environment (Devilbiss 1985). The presence of women in this setting is seen as abnormal and therefore stands out. Gender becomes important not only because of its high social visibility, but also because it is seen as a challenge or reinforcement to existing beliefs.

#### Failure to engage gender discrimination ensures a terminally dysfunctional social order. The end result is extinction

Warren and Cady, 96

(Karen Warren and Duane Cady, Professors at Macalester and Hamline, Bringing peace home: feminism, violence, and nature, 1996, p. 12-13)

Operationalized, the evidence of patriarchy as a dysfunctional system is found in the behaviors to which it gives rise, (c) the unmanageability, (d) which results. For example, in the United States, current estimates are that one out of every three or four women will be raped by someone she knows; globally, rape, sexual harassment, spouse-beating, and sado-massochistic pornography are examples of behaviors practiced, sanctioned, or tolerated within patriarchy. In the realm of environmentally destructive behaviors, strip-mining, factory farming, and pollution of the air, water, and soil are instances of behaviors maintained and sanctioned within patriarchy. They, too, rest on the faulty beliefs that it is okay to “rape the earth,” that it is “man’s God-given right” to have dominion (that is domination) over the earth, that nature has only instrumental value that environmental destruction is the acceptable price we pay for “progress.” And the presumption of warism, that war is a natural, righteous, and ordinary way to impose dominion on a people or nation, goes hand in hand with patriarchy and leads to dysfunctional behaviors of nations and ultimately to international unmanageability. Much of the current “unmanageability” of contemporary life in patriarchal societies, (d) is then viewed as a consequence of a patriarchal preoccupation with activities, events, and experiences that reflect historically male-gender-identified beliefs, values, attitudes, and assumptions. Included among these real-life consequences are precisely those concerns with nuclear proliferation, war, and environmental destruction, and violence towards women, which many feminists see as the logical outgrowth of patriarchal thinking. In fact, it is often only through observing these dysfunctional behaviors—the symptoms of dysfunctionality—that one can truly see that and how patriarchy serves to maintain and perpetuate them. When patriarchy is understood as a dysfunctional system, this “unmanageability” can be seen for what it is—as a predictable and thus logical consequence of patriarchy. The theme that global environmental crises, war, and violence generally are predictable and logical consequences of sexism and patriarchal culture is pervasive in ecofeminist literature. Ecofeminist Charlene Spretnak, for instance, argues that “a militarism and warfare are continual features of a patriarchal society because they reflect and instill patriarchal values and fulfill needs of such a system. Acknowledging the context of patriarchal conceptualizations that feed militarism is a first step toward reducing their impact and preserving life on Earth.” Stated in terms of the foregoing model of patriarchy as a dysfunctional social system, the claims by Spretnak and other feminists take on a clearer meaning: Patriarchal conceptual frameworks legitimate impaired thinking (about women, national and regional conflict, the environment) which is manifested in behaviors which, if continued, will make life on earth difficult, if not impossible. It is a stark message, but it is plausible. Its plausibility lies in understanding the conceptual roots of various woman-nature-peace connections in regional, national, and global contexts.

## Solvency

#### The plan challenges patriarchy at its most fundamental level.

Skaine,94 (Rosemarie, Activist, Author. Gender Issues of Americans in Combat, 140-141)

Family roles remain at the heart of the controversy over whether women should serve in combat. One military man told me that a woman can serve in combat but she cannot be the primary shooter. Part of the reason some men believe this “primary shooter” mentality is that for whatever reason, religious, macho, or acculturation, the end result is the same. Women are mothers, and therefore, according to Linda Grant De Pauw, the prospect of women at war is faced by some with unease. In an interview, De Pauw was even more blunt in contradicting the conventional wisdom: Women and children are killed in vastly greater numbers as civilians than are soliders in war. But society accepts that because it does not contradict the image of women as victims… The horror of women in body bags in not a horror of a dead woman. It’s a that the woman was a warrior, that she is not a victim. American culture does not want to accept that women can be both warriors and mothers, but conjures for itself an ultimate horror – the murdering mother. To accept women as warriors means a challenge to patriarchy at its most fundamental level. Mady Segal points out that cultures sometimes see the mothering role as being diametrically opposed to the warrior role because giving life in childbirth is the opposite of taking a life in a war. Segal says that the more movement that occurs away from traditional family norms, especially from the nuclear family, the greater the representation of women in the military. “this does not mean,” she says, “the demise of family values.” Structural support such as a parental leaves or community-supported child care can be provided. Women will have more opportunity in the military as society supports diverse family forms. Francine D’Amico agrees that “War has been perceived as men’s domain, a masculine endeavor for which women may serve as victims, spectator or prize. Women are denied agency, made present but silenced.” The antifeminists, however, believe that the woman-warrior image destroys the family and fab- ric of our society and decreases military readiness. They believe the genders are “naturally” diflerent. D’Amico thinks, however, that women’s participation in the Gulf War did not challenge traditional gender roles and constraints. She reminds her readers of the “many unidentified women who were among the ‘collateral damage’ of the precision bombing and Iraqi occupation.”

#### Including more women in combat independently transforms the international system.

Statchowistch, 12 (Saskia, Prof@ University of Bristol,Military gender integration and foreign policy in the United States: A feminist international relations perspective Security Dialogue August 2012 vol. 43 no. 4 305-321.)

This analysis highlights the multiple ways in which military gender issues and foreign policy interact. At the policy level, there is often an explicit link between foreign policy doctrines, military reforms and gender policies. This concerns the inner-military gender order as well as the role of global gender equality as a goal in international politics. Negotiations on gender issues are thus frequently a crucial element in power struggles between military and political elites over the course of foreign policy. At the discursive level, foreign policy concepts and debates utilize gendered terminologies and images, as different groups of political and military actors argue for or against a particular course. Gender-based inclusions and exclusions in military institutions are thus linked to the gendering of foreign policy discourses. Consequently, foreign policy debates are to be read as contributions to gender debates and vice versa. Analysis of the time period between 1990 and 2011 shows that foreign policy concepts that emphasize multilateralism, diplomacy, human rights and peacekeeping were tied to the most comprehensive gender equality and integration measures. Clinton’s first term serves as an example for a time period when recruitment conditions, domestic politics and foreign policy concepts all favoured integration and equality in the services was significantly advanced. His second term, which introduced a more risk-averse isolationism, was characterized by stagnation in military gender matters. Integration was under constant attack by the Republican majority in Congress, military commanders, think-tanks and the media. Discourses on the ‘feminization’ of the armed forces and foreign policy successfully challenged the administration by associating some of its strategies – cooperation, compromise and ‘soft skills’ – with femininity. In the context of this mounting conservative pressure, the administration largely abandoned gender equality in the military as a political goal. In the context of the expansionist, unilateral and threat-based foreign policy of George W. Bush, the far right was able to gain considerable influence in domestic and international gender matters. At the same time, the military implementation of Bush’s global vision depended on women’s military participation and the integrated military represented an important asset in the war narrative of ‘liberating Muslim women’. Foreign policy doctrines emphasized the superiority of US values and the necessity to impose them on other societies, even by preventive military interventions. In the context of this doctrine, gender equality served as a symbol of the USA’s moral superiority and at the same time women’s military participation was dissociated from equality and civil rights issues. Under these conditions, the favourable recruitment environment did not translate into more equality for women in the services and some impediments to women’s status were even introduced. But, despite frequent demands by conservative interest groups, integration was not reversed. Foreign policy imperatives thus ultimately triumphed over the conservative, anti-feminist agenda in domestic politics. The Obama administration has redefined the objectives of US foreign policy. In this context, gender equality was reframed as a security issue in its own right rather than a justification for the use of military force. The empowerment of women became a concrete objective, pursued by concrete foreign and domestic measures. Initiatives since Obama’s inauguration suggest that this emphasis on gender equality in the global context is also paralleled by measures to enhance the rights and status of women and sexual minorities in the armed forces. New approaches in the peacebuilding process have also led to a revaluation of female service members in the war zone. However, trends towards the privatization of military tasks and power gains for the far right within the Republican Party could countervail these trends towards more equality. Foreign policy concepts and practice are inherently gendered, make use of gendered discourses and ideologies, and mirror the gendered assumptions that an administration holds on the international order, the nation’s role within it, sources of conflict, and acceptable and efficient ways to solve them. As such, foreign policy not only reflects but also influences gender relations at home and abroad. By defining what US global power means and how it is to be pursued, it identifies the function of the armed forces and the role that women are supposed to play within them. While personnel shortages account for increased female participation in the military, foreign policy rationales and the relevance of military force within them have made a difference to women’s concrete status and function in the armed forces. While war has generally led to more integration, women’s participation differed according to how a specific intervention was conceptualized and in what foreign policy concepts it was embedded. Women’s status and gender equality in the armed forces are thus not only an outcome of recruitment conditions or domestic power relations, but also linked to a nation’s position in the global order and its interpretations of that position. Military gender relations are closely connected to the gendered notions of national identity constructed in and through foreign policy. Feminist international relations enables this broader understanding of military gender integration as interrelated with both the gendered dynamics of global politics and domestic power relations. It advocates engagement with the connections between gendered discourses, social power relations, and women’s status in national and international institutions. This study contributes to understanding how women’s equality and gender-specific inclusions and exclusions at the state level are interrelated with the gendered structures and discourses of international politics. As the analysis shows, gender-critical inquiry into state institutions helps account for state behaviour in the global arena. Vice versa, examining the gendered dynamics in international politics contributes to the understanding of inner-state gender relations. The study also highlights some of the processes through which both are connected: the inclusion/exclusion of gender issues in/from foreign policy doctrines, the gendering of foreign policy discourses, and the instrumentalization of gender equality as a justification for foreign intervention. Through scrutiny of these different levels of interaction, comparative research on the relationship between national and international gender regimes can be conducted beyond the study period and the US case.

#### Legislative action key to social change – debate is the only way to generate public perception

Stoddard 97Thomas B. Stoddard, attorney and adjunct professor at the New York University School of Law

New York University Law Review November, 1997 72 N.Y.U.L. Rev. 967 ESSAY: BLEEDING HEART: REFLECTIONS ON USING THE LAW TO MAKE SOCIAL CHANGE

"Rule-shifting" cannot possibly become "culture-shifting" without public awareness both that a change has taken place, and that that change will affect daily life. Ordinary citizens must know that a shift has taken place for that shift to have cultural resonance. Most lawmaking - legislative, judicial, or administrative - takes place quietly, influencing a limited universe of the interested and connected. In order for "rule-shifting" to become "culture-shifting," however, a change must be generally discerned and then absorbed by the society as a whole.¶ Even many obviously important changes in law lack this element of public knowledge. In 1983 the New York State Board of Regents, which has legislative power over all the schools, public and private, in the state, promulgated a new regulation forbidding corporal punishment in schools. The change had potential for "culture-shifting." It made a fundamental - indeed, daring - change in rules that affected (at least hypothetically) all families in the state with children of school age, and it dealt with a subject of universal concern - whether children should be disciplined by bodily force, or not. Yet the new regulation received little attention, perhaps because it came through the speedy and quiet deliberations of a body that is itself little known or understood. A measure with "culture-shifting" potential became a mere shift in rules. Teachers and administrators took note of it, as did some interested parents, but the public by and large overlooked the change. What might have been the occasion for a statewide discussion of child-rearing was lost.¶ Changes that occur through legislative deliberation generally entail greater public awareness than judicial or administrative changes do. Public awareness is, indeed, a natural concomitant of the legislative process. A legislature - any legislature - purports to be a representative collection of public delegates engaged in the people's business; its work has inherent public significance. Judicial and administrative proceedings, by contrast, involve private actors in private disputes. Those disputes may or may not have implications for others, and they are often subject to the principle of stare decisis, but they are not public by their very nature. (Administrative rulemaking is a diff- **[\*981]** erent animal, akin - at least in theory - to legislative activity, but it is still typically accorded less attention than the business of legislatures.)¶ Legislative lawmaking is, by its nature, open, tumultuous, and prolonged. It encourages scrutiny and evaluation. Thus, it is much more likely than other forms of lawmaking to promote public discussion and knowledge. For that reason alone, such lawmaking possesses a special power beyond that of mere rulemaking. Indeed, the real significance of some forms of legislative lawmaking lies in the debate they engender rather than the formal consequences of their enactment.

#### Political action is key to feminist actualization – discourse and epistemology are insufficient

Zerilli 8 Linda Zerilli, professor of political science @ University of Chicago, 2008, Judith Butler’s Precarious Politics, ed. Terrell Carver and Samuel A. Chambers, p.43-44.

Castoriadis’s account of radical imagination and Wittgenstein’s critique of rule-following are valuable resources for developing a freedom-centred feminism that would take leave of the false security of epistemology and venture out into the world of action, where we simply cannot know what we do, at least not in the ways required by a means-end conception of politics. Such feminism would be based on the faculty of presentation (imagination) and the creation of figures of the newly thinkable rather than the faculty of concepts (understanding) and the ability to subsume particulars under rules. Most important, such feminism would emerge as a historically situated and collective exercise of freedom, an exercise through which we change the conditions under which things are given to us; alter, that is, the relationship of the necessary and the contingent. ¶ This alteration neither involves nor requires attaining an external standpoint from which everything might seem non-necessary, contingent. Rather, it rests on the factical character of human freedom, the capacity to wrest something new from an objective state of affairs without being compelled to do so by a norm or rule. Changes in the meaning of gender, in other words, emerge not through the skeptical insight that gender as such is contingent and can therefore be changed (for example, we have the theory, now we can act), but through the projection of word like women into a new context, where it is taken up by others in ways we can neither predict nor control. It is this act, and not any intrinsic stability (realism) or instability (deconstruction) in language itself, which has the potential power to change every political, worldly constellation. ¶ As important as it is to dismantle the political pretensions of epistemology that have a way of creeping back into our thinking after the linguistic turn, then, a freedom-centered feminism needs more than that. It needs also to affirm the transformative character of human practice in the absence of any external guarantees. To yield the armour of epistemology to the uncertainties of action, Arendt might say, is to find oneself face to face with the abyss of freedom. There is no objectively correct way of acting politically – say, speaking in the name of women any more than there is of following a rule. There are no ‘rules laid out to infinity,’ no ‘line in space’ and no theory that could trace it, which, if only we would follow them, lead from the oppression of the past to the liberation of the present and into the freedom of the future. Terms of political discourse like women are not fixed by something that transcends their use in actual contexts, as the gender realist would have it, but neither are they intrinsically uncertain by virtue of the ever-present possibility of failure that supposedly inheres in language as the very condition of language itself, as Butler suggests. Rather, they are created as meaningful (or not) in and through political action – that is, what we hold, we say*.* This insight suggests a less speculative and skeptical approach to feminist politics and a rather different way of thinking about claims to women as an irreducible element in such a politics. A freedom-centred feminism, after all, is concerned not with knowing (that there are women) as such, but with doing – with world-building, beginning anew.

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#### 2. Presidential authority stems from the constitution or statutory delegation.

Gaziano, 2001 (Todd, senior fellow in Legal Studies and Director of the Center for Legal Judicial Studies at the Heritage Foundation, 5 Texas Review of Law & Politics 267, Spring, lexis)

Although President Washington's Thanksgiving Proclamation was hortatory, other proclamations or orders that communicate presidential decisions may be legally binding. n31 Ultimately the authority for all presidential orders or directives must come from either the Constitution or from statutory delegations. n32 The source of authority (constitutional versus statutory) carries important implications for the extent to which that authority may be legitimately exercised or circumscribed. Regardless of the source of substantive power, however, the authority to use written directives in the exercise of that power need not be set forth in express terms in the Constitution or federal statutes. As is explained further below, the authority to issue directives may be express, implied, or inherent in the substantive power granted to the President. n33 The Constitution expressly mentions certain functions that are to be performed by the President. Congress has augmented the President's power by delegating additional authority within these areas of responsibility. The following are among the more important grants of authority under which the President may issue at least some directives in the exercise of his constitutional and statutorily delegated powers: Commander in Chief, Head of State, Chief Law Enforcement Officer, and Head of the Executive Branch.

#### 3. Executive has authority to exclude women

Barry 13 (Ben Barry, Senior Fellow for Land Warfare at the IISS, 03 Apr 2013, “Women in Combat,” Survival vol. 55 no. 2 April–May 2013 pp. 19, summon //nimo)

On 14 January US Secretary of Defense Leon Panetta and Chairman of¶ the Joint Chiefs of Staff General Martin Dempsey announced that ‘we are¶ eliminating the direct ground combat exclusion rule for women and we¶ are moving forward with a plan to eliminate all unnecessary gender-based¶ barriers to service’.‘ This triggered media speculation that all barriers to¶ women serving in the US military would quickly be lifted. But much of the¶ reporting on the policy shift was over-simplistic. Panetta and Dempsey's¶ announcement is more conditional and nuanced than is often described.¶ And it allows the Pentagon to decide to continue to exclude women from¶ some combat roles. There is a real possibility that this may happen — espe-¶ cially for US Army and Marine Corps infantry.

### 2AC K

#### 2—Indictment of pure capitalism is irrelevant – the issue should be regulated capitalism, which gets the benefits of capitalism without the problems

Newman ’12, Rick Newman, author of Rebounders: How Winners Pivot From Setback To Success. December 6, 2012

USNEWS.com HEADLINE: Why the Tension Between Socialism and Capitalism Will Intensify lexis

This year's presidential election included many bastardized references to both economic systems, which have been broadly mischaracterized for a long time. Many defenders of capitalism argue that the nation's economic system was more pure a decade ago (or two, or three), but America hasn't had pure capitalism in well over a century. And when it did have a raw form of capitalism, the consequences were often disastrous for significant chunks of the population, which is why public support grew for the kind of [ENJOY: Political Cartoons on the Republican Party] In the 1800s, the federal government largely stayed out of the economy, with nothing like the regulatory apparatus we have now. That's one reason people like Andrew Carnegie, John Jacob Astor, John D. Rockefeller, Cornelius Vanderbilt, and J.P. Morgan built vast fortunes -- often from monopolies or cartels--that still exist in various forms today. But unregulated capitalism also generated speculative bubbles, financial panics and destitution much more frequently than those things have occurred over the last 70 years. Public pressure led to a long series of reforms that morphed into the regulated free-market economy we have today. In the early 1900s, Teddy Roosevelt started to break up some of the all-powerful monopolies that enriched a few while overcharging the masses. Congress created the Federal Reserve and the income tax in 1913. A slew of regulatory agencies grew out of the Great Depression. During the 20th century, presidents of both parties signed legislation creating new agencies to oversee food, medicine, the environment and Wall Street (ahem). We still have a capitalist system centered on private ownership and prices set by the free market, but it's layered with rules meant to prevent abuses.

#### 4—Transition wars –

Anderson 84, Perry Anderson, Professor of Sociology at UCLA, Marxist Scholar, 1984, In the tracks of historical materialism, p. 102-103

That background also indicates, however, what is essentially missing from his work. How are we to get from where we are today to where he point us to tomorrow? There is no answer to this question in Nove. His halting discussion of “transition” tails away into apprehensive admonitions to moderation to the British Labor Party, and pleas for proper compensation to capitalist owners of major industries, if these are to be nationalized. Nowhere is there any sense of what a titanic political change would have to occur, with what fierceness of social struggle, for the economic model of socialism he advocates ever to materialize. Between the radicalism of the future end-state he envisages, and the conservatism of the present measures he is prepared to countenance, there is an unbridgeable abyss. How could private ownership of the means of production ever be abolished by policies less disrespectful of capital than those of Allende or a Benn, which he reproves? What has disappeared from the pages of The Economics of Feasible Socialism is virtually all attention to the historical dynamics of any serious conflict over the control of the means of production, as the record of the 20th century demonstrates them. If capital could visit such destruction on even so poor and small an outlying province of its empire in Vietnam, to prevent its loss, is it likely that it would suffer its extinction meekly in its own homeland? The lessons of the past sixty-five years or so are in this respect without ambiguity or exception, there is no case, from Russia to China, from Vietnam to Cuba, from Chile to Nicaragua, where the existence of capitalism has been challenged, and the furies of intervention, blockade and civil strife have not descended in response. Any viable transition to socialism in the West must seek to curtail that pattern: but to shrink from or to ignore it is to depart from the world of the possible altogether. In the same way, to construct an economic model of socialism in one advanced country is a legitimate exercise: but to extract it from any computable relationship with a surrounding, and necessarily opposing, capitalist environment—as this work does—is to locate it in thin air.

#### 6— Cap not root cause of war

Dandeker, ’92, Christopher, Professor of Military Sociology in the Department of War Studies at King's College London, 1992   
[“The Causes of War and the History of Modern Sociological Theory,” Effects of War on Society, Edited by Giorgio Ausenda, Published by the Center for Interdisciplinary Research on Social Stress by Boydell & Brewer Ltd, ISBN 0851158684, 1st Edition Published in 1992, 2nd Edition Published in 2002, p. 44-46]

All these arguments presuppose two specious sociological contentions: first that capitalism, as the most historically developed and dynamic form of class exploitation, is the source of modern militarism, and second, that socialism, preferably on a world scale would involve the abolition of war. The deficiencies in these views, and indeed of those associated with the industrial society thesis discussed earlier, can be revealed by drawing on Machiavellian themes which can then be set out more explicitly in the next section. Despite the fact that industrial capitalism has produced two world wars, as Aron (1954) and more recently Michael Mann (1984) have argued, there is no 'special relationship' between capitalism and militarism—or the tendency to war—only one of historical indifference. All the pre-dispositions of 'capitalist states' to use warfare calculatively as a means of resolving their disputes with other states predate the formation of capitalism as an economic system. Of course, it could be argued that capitalism merely changes the form of militarism. That is to say, pre-capitalist patterns of militarism were still expressions of class relations and modern capitalism has just increased the destructive power of the industrialised means of war available to the state. But this argument will not do. Socialist societies in their use of industrialised power show that the technological potential for war is transferable and can be reproduced under non-capitalist conditions. Furthermore, the military activities of socialist states cannot be explained in terms of a [end page 44] defensive war against capitalism or even an aggressive one, as national and geopolitical power motives are arguably just as significant in the determination of state behaviour. Furthermore, imperial expansion not only predates capitalism but it is also difficult to reduce the causes of wars then and now to the interests of dominant economic classes (Mann 1984:25-46). Meanwhile, modern attempts to explain patterns of military expenditure in terms of the imperatives of capital accumulation face major difficulties. The association between economic boom and military spending has been revealed as an empirical association not an inherent connection; indeed the evidence from Germany and Japan indicates that low levels of military spending might well be associated with economic performances superior to those of societies which commit more of their GNP to defence expenditure. Furthermore, the idea that war and the threat of war are weapons of national mythology used by dominant classes to confuse the working class and weaken their natural affinity with international socialism faces the problem that, as in the case of Europe in 1914, national enthusiasms were such that truly remarkable powers would have to be attributed to ruling classes in order to make sense of them while in any case alternative explanations are at hand (Howard 1976:108-15). The problems of economic determinism in Marxist social theory are compounded by two further difficulties. The first of these concerns its emphasis on endogenous, unfolding models of social change. The tendency is to view state behaviour in terms of the imperatives of internal class relations with warfare being regarded as the externalisation of the contradictory nature of those relations. Marxism finds it difficult to view inter-state relations as characterised by structural interdependencies of a politico-strategic nature. The drift of Marxism is to regard the state as a class actor not as a geopolitical one. This failing derives not just from the internalist bias of Marxist social theory but also from its failure to provide a satisfactory account of the conditions under which the human species has become differentiated into separate societies and, more specifically, why it is that the modern capitalist economic system has developed in the context of a system of competing nation-states—a political system extending from the core of Europe to the rest of the globe during the course of the twentieth century. As Michael Mann has suggested there is nothing in capitalism as an economic system which presupposes or requires such a political system although there is a strong [end page 45] case in favour of the view that the development and triumph of modern capitalism benefited from the constant power struggle amongst the emergent nation-states of European civilisation (Hall 1986; Mann 1988). In Marxist theory, the rise of nation-states has been interpreted as an early stage in the political expression of the universality of the capitalist market, an expression which will change with the demands of capital accumulation (Semmel 1981: 166-73). A contemporary case in point would be the current shift to European integration in the context of global competition amongst the major capitalist blocs. However, nationalism is not a bourgeois phenomenon created to provide ideological and legal conditions favourable for capitalist economic relations. Nor are modern nationalisms, when suitably 'decoded,' enthusiastic proletarian movements ready to take the stage vacated by their less distinguished Western comrades. Nationalism is a far more significant motor of human history than class—a fact which was recognised by some Marxists in the early twentieth century: Mussolini was one of them (Ashworth and Dandeker 1986:82-7; Dandeker 1985:349-67; Gregor 1974:145-7; Smith 1983:47-50). The inability of Marxism to provide a satisfactory account of nationalism is part of a broader failure to explain why 'societies' exist at all. That is to say, in relation to the four clusters of modernity distinguished earlier, it is through the conjoining of industrialism, capitalism, bureaucratic surveillance and the state monopolisation of the means of violence that modern societies have emerged. As Anthony Giddens has suggested, societies are actually products of modernity (and not one dimension of modernity, i.e., class relations within capitalism). If by society one means a clearly demarcated and internally well articulated social entity it is only relatively recently that large human populations have lived under such arrangements and these have been the achievements of modern nation-states (Dandeker 1990:51; Giddens 1985:172).

#### 7—Perm do both – patriarchy is the groundwork for capitalism

Hartmann 76 (Heidi Hartmann, President Women's Policy Research (IWPR), PhD econ Yale University, Research Professor at George Washington University, Spring, 1976, “Capitalism, Patriarchy, and Job Segregation by Sex,” Signs, Vol. 1, No. 3, Women and the Workplace: The Implications of Occupational, Segregation pp. 137-169 //nimo)

The present status of women in the labor market and the current ¶ arrangement of sex-segregated jobs is the result of a long process of ¶ interaction between patriarchy and capitalism. I have emphasized the ¶ actions of male workers throughout this process because I believe that ¶ emphasis to be correct. Men will have to be forced to give up their ¶ favored positions in the division of labor-in the labor market and at ¶ home-both if women's subordination is to end and if men are to begin ¶ to escape class oppression and exploitation.99 Capitalists have indeed ¶ used women as unskilled, underpaid labor to undercut male workers, ¶ yet this is only a case of the chickens coming home to roost-a case of ¶ men's co-optation by and support for patriarchal society, with its hierar- ¶ chy among men, being turned back on themselves with a vengeance. ¶ Capitalism grew on top of patriarchy; patriarchal capitalism is stratified ¶ society par excellence. If non-ruling-class men are to be free they will ¶ have to recognize their co-optation by patriarchal capitalism and relin- ¶ quish their patriarchal benefits. If women are to be free, they must fight ¶ against both patriarchal power and capitalist organization of society. ¶ Because both the sexual division of labor and male domination are ¶ so long standing, it will be very difficulto eradicate them and impossible ¶ to eradicate the latter without the former. The two are now so inextrica- ¶ bly intertwined that it is necessary to eradicate the sexual division of ¶ labor itself in order to end male domination.100 Very basic changes at all ¶ levels of society and culture are required to liberate women. In this ¶ paper, I have argued that the maintenance of job segregation by sex is a ¶ key root of women's status, and I have relied on the operation of ¶ society-wide institutions to explain the maintenance of job segregation ¶ by sex. But the consequences of that division of labor go very deep, ¶ down to the level of the subconscious. The subconscious influences be- ¶ havior patterns, which form the micro underpinnings (or complements) ¶ of social institutions and are in turn reinforced by those social institu- ¶ tions

#### 8— Their representations of capitalism make resistance impossible

Gibson-Graham 96- J.K. Gibson-Graham, Feminist Economist (1996, “The End of Capitalism”)

One of our goals as Marxists has been to produce a knowledge of capitalism. Yet as “that which is known,” Capitalism has become the intimate enemy. We have uncloaked the ideologically-clothed, obscure monster, but we have installed a naked and visible monster in its place. In return for our labors of creation, the monster has robbed us of all force. We hear – and find it easy to believe – that the left is in disarray. Part of what produces the disarray of the left is the vision of what the left is arrayed against. When capitalism is represented as a unified system coextensive with the nation or even the world, when it is portrayed as crowding out all other economic forms, when it is allowed to define entire societies, it becomes something that can only be defeated and replaced by a mass collective movement (or by a process of systemic dissolution that such a movement might assist). The revolutionary task of replacing capitalism now seems outmoded and unrealistic, yet we do not seem to have an alternative conception of class transformation to take its place. The old political economic “systems” and “structures” that call forth a vision of revolution as systemic replacement still seem to be dominant in the Marxist political imagination. The New World Order is often represented as political fragmentation founded upon economic unification. In this vision the economy appears as the last stronghold of unity and singularity in a world of diversity and plurality. But why can’t the economy be fragmented too? If we theorized it as fragmented in the United States, we could being to see a huge state sector (incorporating a variety of forms of appropriation of surplus labor), a very large sector of self-employed and family-based producers (most noncapitalist), a huge household sector (again, quite various in terms of forms of exploitation, with some households moving towards communal or collective appropriation and others operating in a traditional mode in which one adult appropriates surplus labor from another). None of these things is easy to see. If capitalism takes up the available social space, there’s no room for anything else. If capitalism cannot coexist, there’s no possibility of anything else. If capitalism functions as a unity, it cannot be partially or locally replaced. My intent is to help create the discursive conception under which socialist or other noncapitalist construction becomes “realistic” present activity rather than a ludicrous or utopian goal. To achieve this I must smash Capitalism and see it in a thousand pieces. I must make its unity a fantasy, visible as a denial of diversity and change.

### 2AC CP

#### 3. No cause of action – statutes are necessary to provide grounds to sue. Without lawsuits there will be no mechanism for enforcement.

Konnoth 11 CRAIG KONNOTH, The Yale Law Journal March, 2011 120 Yale L.J. 1263 COMMENT: Section 5 Constraints on Congress Through the Lens of Article III and the Constitutionality of the Employment Non-Discrimination Act

ENDA raises exactly these concerns, as the remedies that states currently provide are anemic, and indeed, are subject to repeal. The Williams Institute notes that of the few cities and counties that responded to its survey, two incorrectly referred employee complaints regarding discrimination to the  [\*1275]  EEOC (which has no federal mandate to address them). [n60](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.834391.4260498759&target=results_DocumentContent&returnToKey=20_T18281063812&parent=docview&rand=1380689849090&reloadEntirePage=true#n60) One respondent was unaware of its own antidiscrimination provisions, another did not know what enforcement mechanisms were in place, and several lacked the resources to provide data or handle complaints. [n61](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.834391.4260498759&target=results_DocumentContent&returnToKey=20_T18281063812&parent=docview&rand=1380689849090&reloadEntirePage=true#n61) Similarly, local provisions often have lower caps on damages, lack compensation for attorney's fees, or fail to protect discrimination based on perceived orientation. [n62](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.834391.4260498759&target=results_DocumentContent&returnToKey=20_T18281063812&parent=docview&rand=1380689849090&reloadEntirePage=true#n62) Executive orders prohibiting discrimination fail to create a private cause of action and are not always backed up by investigative mechanisms. [n63](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.834391.4260498759&target=results_DocumentContent&returnToKey=20_T18281063812&parent=docview&rand=1380689849090&reloadEntirePage=true#n63) Courts have also found that some localities' provisions are preempted by federal law. [n64](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.834391.4260498759&target=results_DocumentContent&returnToKey=20_T18281063812&parent=docview&rand=1380689849090&reloadEntirePage=true#n64) Thus, only Congress can pass a bill that would definitively prevent localities' discrimination.

#### 4. XOs can be overturned by Congress

Nosanchuk 12 Mathew S. Nosanchuk, Senior Counselor to the Assistant Attorney General for the Civil Rights Division, U.S. Department of Justice. Albany Government Law Review 2012 5 Alb. Gov't L. Rev. 440 LGBT RIGHTS: TOWARD A MORE PERFECT UNION: ARTICLE: THE ENDURANCE TEST: EXECUTIVE POWER AND THE CIVIL RIGHTS OF LGBT AMERICANS

 [\*454]  Any executive order can be overturned by Congress, and there was an attempt to overturn this one. Representative Joel Hefley, a Republican from Colorado, introduced an amendment to an appropriations bill in an attempt to limit the executive order, claiming that Executive Order 13,087, in prohibiting discrimination on the basis of sexual orientation in the federal workforce, infringed the freedom of speech of federal employees possessing religious or moral objections to homosexuality. [n90](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.730014.2905893163&target=results_DocumentContent&returnToKey=20_T18280841981&parent=docview&rand=1380686611788&reloadEntirePage=true#n90) The amendment sought both to prohibit the addition of any categories beyond those already identified in federal civil rights laws, and the expenditure of funds by the executive branch to enforce Executive Order 13,087. [n91](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.730014.2905893163&target=results_DocumentContent&returnToKey=20_T18280841981&parent=docview&rand=1380686611788&reloadEntirePage=true#n91) The legislation was defeated in the House, by a vote of 252-176, leaving the executive order in place. [n92](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.730014.2905893163&target=results_DocumentContent&returnToKey=20_T18280841981&parent=docview&rand=1380686611788&reloadEntirePage=true#n92)

#### 8. Links to politics – congress backlashes on other agenda items

Risen 10 (Clay Risen, assistant editor of The New Republic, 8.4.10 [http://www.prospect.org/web/page.ww?section=root&name=ViewPrint&articleId=8140])

Congress provides an additional, if somewhat less effective, check on executive orders. In theory, any executive order can be later annulled by Congress. But in the last 34 years, during which presidents have issued some 1,400 orders, it has defeated just three. More often, Congress will counter executive orders by indirect means, holding up nominations or bills until the president relents. “There’s always the potential that a Congress angry about one issue will respond by limiting other things you want,” says Mayer.

### 2AC – Immigration [Econ]

#### 1. Economic decline doesn’t cause war.

Jervis 11 [Robert, Adlai E. Stevenson Professor of International Politics in the Department of Political Science, and a Member of the Arnold A. Saltzman Institute of War and Peace Studies at Columbia University. Force in Our Times Saltzman Working Paper No. 15 July 2011 http://www.siwps.com/news.attachment/saltzmanworkingpaper15-842/SaltzmanWorkingPaper15.PDF]

Even if war is still seen as evil, the security community could be dissolved if severe conflicts of interest were to arise. Could the more peaceful world generate new interests that would bring the members of the community into sharp disputes? 45 A zero-sum sense of status would be one example, perhaps linked to a steep rise in nationalism. More likely would be a worsening of the current economic difficulties, which could itself produce greater nationalism, undermine democracy, and bring back old-fashioned beggar-thy-neighbor economic policies. While these dangers are real, it is hard to believe that the conflicts could be great enough to lead the members of the community to contemplate fighting each other. It is not so much that economic interdependence has proceeded to the point where it could not be reversed – states that were more internally interdependent than anything seen internationally have fought bloody civil wars. Rather it is that even if the more extreme versions of free trade and economic liberalism become discredited, it is hard to see how without building on a pre-existing high level of political conflict leaders and mass opinion would come to believe that their countries could prosper by impoverishing or even attacking others. Is it possible that problems will not only become severe, but that people will entertain the thought that they have to be solved by war? While a pessimist could note that this argument does not appear as outlandish as it did before the financial crisis, an optimist could reply (correctly, in my view) that the very fact that we have seen such a sharp economic down-turn without anyone suggesting that force of arms is the solution shows that even if bad times bring about greater economic conflict, it will not make war thinkable.

#### 2. Fiscal fights, farm bill, healthcare thump immigration

Berman 10/25 [Russell, The Hill, GOP comfortable ignoring Obama pleas for vote on immigration bill http://thehill.com/homenews/house/330527-gop-comfortable-ignoring-obama-pleas-to-move-to-immigration-reform]

For President Obama and advocates hoping for a House vote on immigration reform this year, the reality is simple: Fat chance. [Video] Since the shutdown, Obama has repeatedly sought to turn the nation’s focus to immigration reform and pressure Republicans to take up the Senate’s bill, or something similar. But there are no signs that Republicans are feeling any pressure. Speaker John Boehner (R-Ohio) has repeatedly ruled out taking up the comprehensive Senate bill, and senior Republicans say it is unlikely that the party, bruised from its internal battle over the government shutdown, would pivot quickly to an issue that has long rankled conservatives. Rep. Tom Cole (R-Okla.), a leadership ally, told reporters Wednesday there is virtually no chance the party would take up immigration reform before the next round of budget and debt-ceiling fights are settled. While that could happen by December if a budget conference committee strikes an agreement, that fight is more likely to drag on well into 2014: The next deadline for lifting the debt ceiling, for example, is not until Feb. 7. “I don’t even think we’ll get to that point until we get these other problems solved,” Cole said. He said it was unrealistic to expect the House to be able to tackle what he called the “divisive and difficult issue” of immigration when it can barely handle the most basic task of keeping the government’s lights on. “We’re not sure we can chew gum, let alone walk and chew gum, so let’s just chew gum for a while,” Cole said. In a colloquy on the House floor, Minority Whip Steny Hoyer (D-Md.) asked Majority Leader Eric Cantor (R-Va.) to outline the GOP's agenda between now and the end of 2013. Cantor rattled off a handful of issues — finishing a farm bill, energy legislation, more efforts to go after ObamaCare — but immigration reform was notably absent. When Hoyer asked Cantor directly on the House floor for an update on immigration efforts, the majority leader was similarly vague.

#### 4. Immigration is dead

Chotiner 10/25 [Isaac, New Republic, Immigration Reform is Doomed. At Least For Now. http://www.newrepublic.com/article/115348/immigration-reform-cannot-pass-midterm-elections]

The New Republic's Alec MacGillis offers up various reasons why immigration reform has a better chance of passing in the next year than conventional wisdom currently holds. I appreciate his optimism, but immigration is doomed—at least until after the midterm elections. Alec is probably right that a few things have improved the prospects for a bill. House Speaker John Boehner, who clearly wants one, is in a stronger position with his caucus than he was even several months ago. Immigration reform has several rich backers. President Obama is desperate for a bill. And Congress, after the shutdown debacle, may feel the need to make it appear as if something, anything can come out of Washington. Unfortunately, all of these things pale in comparison to the larger question of whether the bill is in the interest of House Republicans, and the party more generally. Here is Alec's take: It’s in the Republicans’ interest. Why would the cautious, conflict-averse Boehner want to put himself through the hassle, even if he does have a path forward? Because, of course, he and so many other leaders of his party and the conservative movement—Paul Ryan, Karl Rove, Grover Norquist—grasp that the party cannot continue be seen as obstructing immigration reform by the country’s growing legions of Hispanic and Asian-American voters. Yes, many of the same leaders were warning the hard-liners in the House and Senate off of the defund-Obamacare government-shutdown path to no avail, but those warnings were highly ambivalent, a matter of tactical disagreement after years in which the leaders had been banging the same anti-Obamacare drum. Whereas in this case the leaders are truly in favor of immigration reform, even if just for reasons of self-preservation. This may be true, but it suggests—in the best case scenario—that Congress passes a bill after the midterms, rather than before them. Pretend you are a House Republican, and thus in almost all cases are from a very conservative district. What is your incentive to pass an immigration bill before November 2014? Not only would it make you vulnerable to a primary challenge, but it isn't even obvious that it would strengthen your position in the general election, especially considering the way House districts are drawn, and that non-presidential election years tend to have older and whiter electorates. Alec is right that eventually Republicans need to stop bleeding minority votes. But that is part of a long, long, long-term project. Politics is a zero-sum game, and if Obama signs an immigration bill, the Democrats are going to get most of the credit. Ideally, then, Republicans could win the 2016 election without supporting immigration reform and have a Republican president sign the bill. (They blew their chance in 2007.) But it may be hard to win the next election without doing so. Still, even in 2016, with a bigger electorate, it still isn't necessarily in the interests of Republican congressmen to support a bill. Immigration reform is going to be, at best, a tough sell in 2015. Before the next congressional election, it's a nearly impossible dream.

#### 5. Plan has bipart support

NYT, 13 (Pentagon Is Set to Lift Combat Ban for¶ Women. http://lebloglibredemonquartier.midiblogs.com/media/01/01/1176410493.pdf)

Although in the past some Republican members of the House have balked at allowing women in¶ combat, on Wednesday there appeared to be bipartisan endorsement for the decision, which was first¶ reported by The Associated Press and CNN in midafternoon.¶ “It reflects the reality of 21st century military operations,” Senator Carl Levin, Democrat of Michigan¶ and chairman of the Senate Armed Services Committee, said in a statement.Senator Patty Murray, Democrat of Washington and the chairwoman of the Senate Veterans Affairs¶ Committee, called it a “historic step for recognizing the role women have, and will continue to play, in the defense of our nation.”¶ Senator Kelly Ayotte, a New Hampshire Republican and a member of the Armed Services Committee,¶ said in a statement that she was pleased by the decision and said that it “reflects the increasing role¶ that female service members play in securing our country.”¶ Representative Loretta Sanchez, the California Democrat who has long pressed to have women’s role¶ in combat recognized, said that she was pleased that Mr. Panetta was removing what she called “the¶ archaic combat exclusion policy.”¶ Senator Kirsten E. Gillibrand, a New York Democrat who has pushed for lifting the ban, called it “a¶ proud day for our country” and an important step in recognizing “the brave women who are already¶ fighting and dying.”

#### 7. No links, only turns, no one opposes the plan

Baldor 13 LOLITA C. BALDOR, Associated Press 01/24/13 Huffington Post Women In Combat Will Strengthen U.S. Military, Leon Panetta Says <http://www.huffingtonpost.com/2013/01/24/women-in-combat_n_2543276.html>

There long has been opposition to putting women in combat, based on questions of whether they have the necessary strength and stamina for certain jobs, or whether their presence might hurt unit cohesion. But the Pentagon's announcement was largely hailed by lawmakers and military groups. There were only a few offering dissenting views.

#### 8. Political capital is irrelevant

Dickinson, ’09,– professor of political science at Middlebury College and taught previously at Harvard University where he worked under the supervision of presidential scholar Richard Neustadt (5/26/09, Matthew, Presidential Power: A NonPartisan Analysis of Presidential Politics, “Sotomayor, Obama and Presidential Power,” <http://blogs.middlebury.edu/presidentialpower/2009/05/26/sotamayor-obama-and-presidential-power/>)

As for Sotomayor, from here the path toward almost certain confirmation goes as follows: the Senate Judiciary Committee is slated to hold hearings sometime this summer (this involves both written depositions and of course open hearings), which should lead to formal Senate approval before Congress adjourns for its summer recess in early August. So Sotomayor will likely take her seat in time for the start of the new Court session on October 5. (I talk briefly about the likely politics of the nomination process below). What is of more interest to me, however, is what her selection reveals about the basis of presidential power. Political scientists, like baseball writers evaluating hitters, have devised numerous means of measuring a president’s influence in Congress. I will devote a separate post to discussing these, but in brief, they often center on the creation of legislative “box scores” designed to measure how many times a president’s preferred piece of legislation, or nominee to the executive branch or the courts, is approved by Congress. That is, how many pieces of legislation that the president supports actually pass Congress? How often do members of Congress vote with the president’s preferences? How often is a president’s policy position supported by roll call outcomes? These measures, however, are a misleading gauge of presidential power – they are a better indicator of congressional power. This is because how members of Congress vote on a nominee or legislative item is rarely influenced by anything a president does. Although journalists (and political scientists) often focus on the legislative “endgame” to gauge presidential influence – will the President swing enough votes to get his preferred legislation enacted? – this mistakes an outcome with actual evidence of presidential influence. Once we control for other factors – a member of Congress’ ideological and partisan leanings, the political leanings of her constituency, whether she’s up for reelection or not – we can usually predict how she will vote without needing to know much of anything about what the president wants. (I am ignoring the importance of a president’s veto power for the moment.) Despite the much publicized and celebrated instances of presidential arm-twisting during the legislative endgame, then, most legislative outcomes don’t depend on presidential lobbying. But this is not to say that presidents lack influence. Instead, the primary means by which presidents influence what Congress does is through their ability to determine the alternatives from which Congress must choose. That is, presidential power is largely an exercise in agenda-setting – not arm-twisting. And we see this in the Sotomayer nomination. Barring a major scandal, she will almost certainly be confirmed to the Supreme Court whether Obama spends the confirmation hearings calling every Senator or instead spends the next few weeks ignoring the Senate debate in order to play Halo III on his Xbox. That is, how senators decide to vote on Sotomayor will have almost nothing to do with Obama’s lobbying from here on in (or lack thereof). His real influence has already occurred, in the decision to present Sotomayor as his nominee. If we want to measure Obama’s “power”, then, we need to know what his real preference was and why he chose Sotomayor. My guess – and it is only a guess – is that after conferring with leading Democrats and Republicans, he recognized the overriding practical political advantages accruing from choosing an Hispanic woman, with left-leaning credentials. We cannot know if this would have been his ideal choice based on judicial philosophy alone, but presidents are never free to act on their ideal preferences. Politics is the art of the possible. Whether Sotomayer is his first choice or not, however, her nomination is a reminder that the power of the presidency often resides in the president’s ability to dictate the alternatives from which Congress (or in this case the Senate) must choose. Although Republicans will undoubtedly attack Sotomayor for her judicial “activism” (citing in particular her decisions regarding promotion and affirmative action), her comments regarding the importance of gender and ethnicity in influencing her decisions, and her views regarding whether appellate courts “make” policy, they run the risk of alienating Hispanic voters – an increasingly influential voting bloc (to the extent that one can view Hispanics as a voting bloc!) I find it very hard to believe she will not be easily confirmed. In structuring the alternative before the Senate in this manner, then, Obama reveals an important aspect of presidential power that cannot be measured through legislative boxscores.

### 2AC Flex

#### 1. Bureaucracy thumps effectiveness

Martin 10 (David Martin, CBS News' National Security Correspondent, “Gates Criticizes Bloated Military Bureaucracy,” May 10, 2010, CBS News, http://www.cbsnews.com/8301-18563\_162-6470348.html //nimo)

Gates has frequently complained the Pentagon bureaucracy takes too long to field critical pieces of equipment like predator drones and mine resistant vehicles. But in a speech this weekend he upped the ante.¶ "The Defense Department must take a hard look at every aspect of how it is organized, staffed and operated - indeed every aspect of how it does business," the defense secretary said.¶ Speaking at the Eisenhower Library, which houses the records of the president who famously warned about the military-industrial complex, Gates ticked off example after example of Pentagon bloat.¶ "Overhead, broadly defined, makes up roughly 40 percent of the department's budget," he said.¶ He described a top-heavy bureaucracy where generals hang on to their jobs long after the need has vanished.¶ "Two decades after the end of the cold war led to steep cuts in U.S. forces in Europe, our military still has more than 40 generals, admirals or civilian equivalents based on the continent," Gates said.¶ Gates said health care costs are "eating us alive," going from $19 billion to $50 billion in 10 years. He even took a shot at pay for the troops, up 42 percent since the wars in Afghanistan and Iraq began - better than civilians have fared. ¶ Not counting those wars, the Pentagon budget has almost doubled in the last decade even though no other country is remotely close in military power.¶ The last time a defense secretary tried to take on the Pentagon bureaucracy was September 10, 2001. On that day, Donald Rumsfeld said, "Money disappears into duplicative duties and bloated bureaucracy."¶ Two wars and one economic meltdown later, Gates says it's past time for the Pentagon to take a hard look at how it operates.

#### 2. Women make the military stronger, not weaker

Hlad 13 (Jennifer Hlad, master of journalism from the University of Maryland, January 25, 2013, “Combat roles for women will strengthen the military, leaders say,” Stars and Stripes, http://www.stripes.com/combat-roles-for-women-will-strengthen-the-military-leaders-say-1.205216 //nimo)

WASHINGTON – As some soldiers and Marines question whether women can meet gender-neutral physical standards and perform alongside men in combat roles, service leaders stress that women have already proven themselves on the battlefield and say removing the combat exclusion policy will strengthen, not weaken, the military.¶ “This is a great opportunity to make our Army better,” said Lt. Gen. Howard Bromberg, the Army’s deputy chief of staff.

#### 3. Syria thumps war powers

Fisher, 13 (Max Fisher is the Post's foreign affairs blogger. He has a master's degree in security studies from Johns Hopkins University. Obama’s Syria choice: Good for politics, good for the constitution, bad for Syria. http://www.washingtonpost.com/blogs/worldviews/wp/2013/08/31/obamas-syria-choice-good-for-politics-good-for-the-constitution-bad-for-syria/)

A problem that critics often describe as “the imperial presidency ” – the enormous growth, since September 2001, of the executive branch’s ability to unilaterally conduct foreign policy and pursue aggressive national security policies – just took a big symbolic blow. Obama, by deferring to Congress even though he probably doesn’t have to, may have just undercut some of those “imperial presidency” practices – which he himself had previously used extensively, for example with drone campaigns and with the 2011 strikes on Libya.¶ Harvard Law School Prof. Jack Goldsmith, who has not been shy about criticizing Obama on such grounds, had just run a New York Times op-ed column sharply criticizing Obama for what many assumed would be unilateral strikes on Syria without congressional approval. After the speech, Goldsmith praised Obama on his blog for the move to defer to Congress, calling it a “big risk” but saying that Obama would be “incomparably strengthened, legally and especially politically.”

#### 4. Strong presidential power causes constant intervention wars

Schlesinger 04, (Arthur M. Jr., Professor Emeritus, City University of New York Graduate Center, THE IMPERIAL PRESIDENCY, 2004, p. 497-498.)

There is little more typically American than to despair of the republic. As early as 1802, Hamilton pronounced the Constitution a “frail and worthless fabric.” Seventy years later Henry Adams declared that “the system of 1789” has “broken down.” The dirges of our own day are hardly novel. But the constitutional strain imposed by chronic international crisi is new. Tocqueville’s warning lingers. International crisis has given American Presidents the opportunity to exercise almost royal prerogatives. Some Presidents have exercised these prerogatives with circumspection. Others have succumbed to the delusion that American has been charged by the Almighty with a global mission to redeem fallen humanity. In The Imperial Presidency I doubted that a messianic foreign policy, America as world savior, was reconcilable with the American Constitution (see pages 163-166, 206-208, 298). Nearly two decades later, I conclude with the same question. When an American President conceives himself the appointed guardian of the world in which an eternal foreign threat requires a rapid and incessant deployment of men, weapons and decisions behind a wall of secrecy, the result can only be a radical disruption of the balance of the American Constitution. It is hard to reconcile the separation of powers with a foreign policy driven by an indignant ideology and disposed to intervene unilaterally and secretly everywhere around the planet. The Constitution must buckle under the weight of a vainglorious policy, aiming at the redemption of lesser breeds without law, relying on secret actions and duplicitous methods, involving the United States in useless wars and grandiose dreams.

#### 5. Presidential war powers inevitable – the president enjoys institutional advantages.

Howell and Pevehouse, 07 (Willam G. Howell, Prof @ U Chicago, Jon C. Pevehouse, Prof @ U Chicago. While Dangers Gather: Congressional Checks on Presidential War Powers. 7-8)

There is, at present, a burgeoning body of work within the American politics that documents the strategic advatnages presidents enjoy when they exercise unilateral powers, or what we have called “power without persuasion,” which very much much embodies the deployment of troops abroad. Two features of this unilateral politics literature are worth noting. The first concerns sequence. When presidents act unilaterally, they stand at the front end of the policy-making process and thereby place on congress and the courts the burden of revising a new political landscape. If adjoining branches of government choose not to retaliate, either bv passing a law or ruling against the president then the president's order stands. Only by taking (or credibly threatening to take) positive action can either adjoining institution limit the president's unilateral powers. "Members of congress often do confront presidents when their military order prove misguided or ill-informed. They do so, however, under less than circum-stances. For starters, when debating the merits of an ongoing military venture, members of congress are vulnerable to the accusation that they are undermining troop morale and catering to the enemy. As James Lindsay recognizes, members often avoid putting themselves in the politically and morally difficult position of allowing funds to be cut off to troops who may be fighting for their lives." BY way of example, recall Clinton's deployment of troops to Haiti in 1994. Before the action a majority of senators opposed the plan, but once troops were deployed, Congress-did not attempt to force their immediate return. One political commentator surmised, "There's bipartisan criticism of going into Haiti. There's also bipartisan support, at least, in supporting the troops now that they're there."15 Though members can, and do, take on the president during the ongoing course of a military venture, they do so under condi- tions that hardly foster open and critical debate.17 Instead, members pro- ceed cautiously ever aware of how their actions and words are likely to be interpreted by a public wary of any criticism directed at troops who have willingly placed their lives on the line. . Some military actions, meanwhile, are sufficiently limited in scope and duration that Congress has little if any opportunity to coordinate an ef- fective response, either before or during the actual intervention. In the spring of "1986 for instance, Reagan "consulted" with congressional party leaders on planned air strikes against Libya while U.S. planes were en route to Northern Africa. Obviously there was little that the members could do to curb these attacks. As one Democrat attending the meeting noted, what could we have done? . . . Told [the president] to turn the planes oround?"18 The military completed its bombing campaign long before members of Congress could possibly have enacted authorizing legislation. Though Congress might have passed legislation either supporting or condemning the president's action after the fact, its members could do precious little to redirect the course of this particular targeted military strike. By seizing the initiative and unilaterally deploying the military to perform short and small attacks, presidents often elude the checks that Congress might otherwise place on them. The second feature of unilateral powers that deserves attention is that when the president acts, he acts alone. Of course, he relies on numerous advisors to formulate the policy, to devise ways of protecting it against congressional or judicial encroachment, and to oversee its implementation. But to issue the actual policy, as either an executive order or memorandum or any other kind of directive, the president need not rally majorities, compromise with adversaries, or wait for some interest group to bring a case to court. The president, instead, can strike out on his own, placing on others the onus of coordinating an effective response. Doing so, the modern president is in a unique position to lead, break through the stasis that pervades the federal government, and impose his will in more and more areas of governance. In foreign policy making generally, and on issues involving the use of force in particular, this feature of unilateral powers reaps special rewards. If presidents had to build broad-based consensus behind every deployment before any military planning could be executed, most ventures would never get off the ground. Imagine having to explain to members of Congress why events in Liberia this month or Ethiopia the next demand military action, and then having to secure the formal consent of a supermajority before any action could be taken. The federal government could not possibly keep pace with an increasingly interdependent world in which every region holds strategic interests for the United States. Because presidents, as a practical matter, can unilaterally launch ventures into distant locales without ever having to guide a proposal through a circuitous and uncertain legislative process, they can more effectively manage these responsibilities and take action when congressional deliberations often result in gridlock. It is no wonder, then, that in virtually every system of governance, executives (not legislatures or courts) mobilize their nations through wars and for- eign crises. Ultimately, it is their ability to act unilaterally that enables them to do so. In sum, the advantages of unilateral action are significant: they allow the president to move first and move alone. All of the institutional features of Congress that impede consensus building around a military venture ex ante also make it equally if not more difficult, later, to dismantle an operation that is up and running' This is what makes the president's unilateral powers ,so potent. Multiple veto points, high transaction costs, and collective action problems regularly conspire against the president when he tries to guide his legislative agenda through Congress. Each, though, works to his advantage when he issue a unilateral directive, as each cripples Congress’s capacity to muster an effective response. To be sure, congressional checks on war powers do not disappear entirely – this book is based on the premise that under well specified conditions (see chapter 2) they remain operative. But in an era when presidents unilaterally deploy troops with greater and greater frequency, Congress often trips over the same institutional features that undermine its capacity to govern more generally.

#### 6. The president and his powers are seen through a lens of hypermasculine necessity, where emotion is ‘weak’ and ‘feminine’ – this conceptualization creates the exceptional Other and justifies the War on Terror

Athanassiou 12 (Cerelia Athanassiou, School of Sociology, University of Bristol, “‘Gutsy’ Decisions and Passive Processes: The Warrior Decision-Maker After The Global War On Terror,” International Feminist Journal of Politics, 24 Dec 2012 //nimo)

The decision to kill the leader of al-Qaeda, Osama bin Laden, in a Pakistani safe-house proved to be politically advantageous for an administration that too often fell prey to characterizations of being ‘weak’ on national security, despite also being responsible for rising death tolls in the growing ‘CIA drone war’ (DeYoung 2011; Friedersdorf 2011; Woods 2012) and associated practices (e.g. Reprieve 2012). Obama's credentials as a warrior could finally be confirmed, after years of challenges to his masculinity that came mostly from the political opposition. As Senator Patrick Leahy, Chairman of the US Senate Committee on the Judiciary, observed, the killing of bin Laden proved ‘President Obama and his national security team have never lost sight of the Nation's war against terrorism’ (Leahy 2011). It demonstrated that, far from being ‘weak’, Obama was able to ‘use our full arsenal to protect and defend the American people’ when he needed to (Leahy 2011). However, the jubilation that followed also confirmed that the workings of the ‘war machine’ were best suited for fighting the terrorist threat. Indeed, the continuing celebration of the mission and the decision it spurred can be seen in the proposed plans to make a film about this mission (BBC 2012), the outpouring of flag-clad crowds onto US streets in the aftermath (BBC 2011) or the now-iconic status of a picture of the primary decision-makers in the White House Situation Room watching a live-feed of the Navy SEALs' operation (Couts 2011). The episode seemed to offer a reaffirmation of US identity in the wake of the GWOT, and this was seen as something to be celebrated.¶ Killing Osama bin Laden without so much as a hint at judicial process to determine exactly what this man could be accused of (see also Greenwald 2011) was hailed as ‘the most courageous decision’ (Clapper in Obama 2011a) and as ‘gutsy’ (Panetta in Obama 2011a). The pats on the back and the congratulations Obama received demonstrated the exclusivity of national security circles, and the respect within them for leadership that decides to act even on ‘circumstantial intelligence’ (Clapper in Obama 2011a), stepping outside of the established process for the sake of the national interest (see also Brennan in Bendery 2011; Lieberman 2011; for similar demands on George W. Bush see Benjamin 2008). Importantly, this episode demonstrated that despite Obama's potentially suspect insistence that terrorist ‘others’ are entitled to due process, he was able to adhere to the warrior logic when necessary. Indeed, this episode proved that the same (GWOT) framework of war and its warrior mentality still hold for an administration that adamantly pursued the return to the rule of law.¶ What was praised here then was the ‘cool and decisive’ leadership (Lieberman 2011) that distinguished between ‘exception’ (i.e. Osama bin Laden) and ‘normality’ (i.e. petty criminals). This showed that Obama was able to respond to the ‘exceptional’ and that he could do so violently. The same dynamics were at work in the Abdulmutallab episode where, by the same standards, Obama failed to perform in an unambiguous way towards the seemingly unambiguous category of the terrorist and so was criticized for this ‘weakness’. What has become clear is that the President's giving precedence to legal processes could not inspire as much confidence as his taking on the warrior decision-maker stance to contain violently a terrorist threat.¶ The ‘cool and decisive’ characterization used after the killing of Osama bin Laden served to discipline all decision-makers: the iconic picture from the White House Situation Room of members of the national security team monitoring the assassination operation shows a sea of serious faces, with one of the two women, Secretary of State Hillary Clinton, covering her mouth in what appeared to be shock (see Pasetsky 2011). The image generated much speculation, and Clinton finally commented after a few days that the situation was ‘most intense’, but offered the following justification for covering her mouth: ‘I am somewhat sheepishly concerned that it was my preventing one of my early spring allergic coughs’ (Pasetsky 2011). The weight given to understanding her potentially emotional behaviour shows that retaining warrior credentials involves excluding the presence of emotions in the Situation Room.¶ After all, the ‘warrior decision-maker's’ credentials have to be earned: for Obama, a significant victory in this was won with the killing of bin Laden, whereby Obama was able to use his behaviour in this case to demonstrate ‘toughness’, with the phrase ‘ask bin Laden’ (if Obama is an ‘appeaser’/‘not prepared’) becoming somewhat of a refrain whenever his team's masculine credentials are challenged (see Epstein 2011; Memmott 2011). Similarly then, the preoccupation with assigning meaning to Clinton's potential demonstration of emotion in the Situation Room again showed that national security is to be equated with ‘manly shows of overt strength’ (Enloe 2007: 50), crucially for those, like Clinton, who are not seen to embody this. The Obama team's ‘tough’ action awarded them full participation in the ‘fraternal nation-state’ (Peterson 1999; see also Puar 2007: 49) and the (in)securities – personal and more general – this brings with it. By this logic then, the decision to kill bin Laden ensured that ‘the world is a safer and better place’ (Lieberman 2011): the hegemonic understandings of what constitutes security for the USA, and what masculinity is required for this, remained in place and comfortably unchanging.¶ The killing of bin Laden, and more importantly its branding as ‘justice [having] been done’ (Obama 2011b), were a continuation of the GWOT's framework of justice depending on who proclaims it rather than on how it is carried out, with an immediate consensus on the action's legality among US policy-making circles (e.g. Holder in Gerstein 2011; Holder 2011; Leahy 2011; countering this: Greenwald 2011). Obama's decision was a return to Bush's much-maligned articulation of the hunt for bin Laden as boiling down to declaring him ‘Wanted: Dead or Alive’: ‘All I want and America wants is to see them brought to justice’ (Bush in Harnden 2001). This demonstrated that security still very much depends on the masculine constructions of the ‘protector’ commander-in-chief and the ‘protected’ innocent nation (as per Enloe 2007; see also Messerschmidt 2010: 170). In such a static framing, it is the warrior decision-maker's distinctions between ‘civilised warfare’ and barbaric ‘terrorism’, or between the order to be ‘protected’ and the security ‘threat’, that hold true (see Carver 2008: 77–8). The logic of the ‘“save civilization itself”-fantasy’ (Richter-Montpetit 2007: 41) not only remains unquestioned, but is one more area which privileges the system of realpolitik-by-elites (see also Carver 2008: 79–80) that relies on masculine constructions of the ‘norm’ of politics and the ‘exceptionalism’ of security.