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They don’t meet—they don’t do one of the 5.

**KAISER 80**—the Official Specialist in American National Government, Congressional Research Service, the Library of Congress [Congressional Action to Overturn Agency Rules: Alternatives to the Legislative Veto; Kaiser, Frederick M., 32 Admin. L. Rev. 667 (1980)]

In addition to direct statutory overrides, there are a variety of statutory and nonstatutory techniques that have the effect of overturning rules, that prevent their enforcement, or that seriously impede or even preempt the promulgation of projected rules. For instance, a statute may alter the jurisdiction of a regulatory agency or extend the exemptions to its authority, thereby affecting existing or anticipated rules. Legislation that affects an agency's funding may be used to prevent enforcement of particular rules or to revoke funding discretion for rulemaking activity or both. Still other actions, less direct but potentially significant, are mandating agency consultation with other federal or state authorities and requiring prior congressional review of proposed rules (separate from the legislative veto sanctions). These last two provisions may change or even halt proposed rules by interjecting novel procedural requirements along with different perspectives and influences into the process.

It is also valuable to examine **nonstatutory** controls available to the Congress:

1. legislative, oversight, investigative, and confirmation hearings;

2. establishment of select committees and specialized subcommittees to oversee agency rulemaking and enforcement;

3. directives in committee reports, especially those accompanying legislation, authorizations, and appropriations, regarding rules or their implementation;

4. House and Senate floor statements critical of proposed, projected, or ongoing administrative action; and

5. direct contact between a congressional office and the agency or office in question.

Such mechanisms are all indirect influences; unlike statutory provisions, they are neither self-enforcing nor legally binding by themselves. Nonetheless, nonstatutory devices are more readily available and more easily effectuated than controls imposed by statute. And some observers have attributed substantial influence to nonstatutory controls in regulatory as well as other matters.3

It is **impossible**, in a **limited space**, to provide a comprehensive and exhaustive listing of congressional actions that override, have the effect of overturning, or prevent the promulgation of administrative rules. Consequently, this report **concentrates** upon the **more direct statutory devices**, although it also encompasses committee reports accompanying bills, the one nonstatutory instrument that is frequently most authoritatively connected with the final legislative product. The statutory mechanisms surveyed here cross a wide spectrum of possible congressional action:

1. single-purpose provisions to overturn or preempt a specific rule;

2. alterations in program authority that remove jurisdiction from an agency;

3. agency authorization and appropriation limitations;

4. inter-agency consultation requirements; and

5. congressional prior notification provisions.

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**The aff focuses on the institutional solution to war powers ignoring the individual’s role – this re-entrenches gendered IR**

**Sylvester 12** (Christine Sylvester is Professor of Political Science at the University of Connecticut, USA and Professorial Affiliate of the School of Global Studies, University of Gothenburg, Sweden.) War Experiences/War Practices/War Theory

What if International Relations (IR) were to turn its usual view of war around and start not with states, fundamentalist organisations, strategies, conventional security issues and a weapons system, and not with the aim of establishing the causes of war, as has so often been the case? What if we think of war as experience, as something ordinary people observe and suffer physically and emotionally depending on their locations? To date, much of IR has been operating comfortably in a world of theoretical abstractions – states, systems, power, balances, stakeholders, decision-makers, peace, war – tacitly leaving people and war to journalists, novelists, memoirists, relief workers, anthropologists, women’s studies and social history to flesh out.1 **This means** that **IR is not addressing one of the key elements of war**: its actual mission of injuring human bodies and destroying normal patterns of social relations. Neglecting the human elements for strategic and interest politics renders the injurious nature of war a consequence rather than the actual focal point of war.2 **It** also **makes it more difficult to appreciate the decentralised aspects of** many contemporary **wars, which is to say the dispersal of authority to people who are** routinely **off IR’s grid** – like the Liberian peace women who forced Charles Taylor into peace talks and the kidnapped war women led by Black Diamond, who simultaneously gained notoriety as fierce combatants in the bush.3 As well, IR knows about the political economies and security mercenaries of war,4 but often finds the individuals who sustain and benefit from war less pertinent than the international web of interactions they create, **thus potentially missing links in chains that start and end with people**.

Much of IR actually seems unprepared for the presence, let alone the power, of ordinary people in international relations, whether those people walk through the Berlin Wall and help shift Cold War polarity, or toss out autocrats in the Arab Spring revolutions. Ordinary people are overwhelmingly absent in IR because they are not seen as key stakeholders in IR’s versions of international relations. My challenge to the field is to pay more attention to war as experience, on two grounds: **war cannot be fully apprehended unless it is studied up from people** and not only studied down from places that sweep blood, tears and laughter away, or assign those things to some other field to look into; and **people demonstrate time and again that they too comprise international relations, especially the relations of war, and cannot therefore be ignored or relegated to a collateral status**. IR’s feminist wing of war studies, which is still taking shape, has implicitly made those kinds of propositions the touchstones of its war research. As well, scholars from a number of IR’s many camps work the boundaries of IR theories in ways that can reveal the people of war. Even IR traditions that make a point of operating above people (neorealism) can briefly mention people in war situations, albeit without elaborating their experiences or building them into IR theories.

**AND their representations create structural violence – that outweighs and turns the case – only evaluating IR can solve**

**Shepherd 09** [Laura J. Dept of Political Science and International Studies, U of Birmingham (UK), “Gender, Violence and Global Politics: Contemporary Debates in Feminist Security Studies,” Political Studies Review, V7 I2, Apr]

According to conventional accounts of international relations (IR), scholars focus on war (predominantly as a means to providing the sovereign state with security) and the existence of war's corollary is a foundational assumption that goes largely unquestioned. Peace must exist, for international relations are not characterised by perpetual conflict. However, peace is implicitly defined, in dichotomous terms, by the absence of violent conflict, as 'not-war'. Of more analytical interest is conflict, which is always a possibility and which, moreover, occurs between states. International relations as a discipline, narrowly conceived, is largely unconcerned with activities that occur within the state. Minimally, feminist and other critical approaches to IR seek to correct such disciplinary myopia. While classical realism theorises the political actor –Hans Morgenthau's 'political man' (1973, pp. 15–6) – in order to construct the state as actor, the now dominant neo-realism abstracts the human subject from its disciplinary musings, leading to the infamous 'black box' model of the state. Early feminist scholarship challenged this assumption as well, arguing that individuals, as human subjects in all their messy complexity, are an integral part of international relations (see Shepherd, 2007, pp. 240–1). Attention to the human subject in I/international R/relations – or, as Christine Sylvester phrases it, 'relations international', to emphasise the embedded nature of all kinds of relations in the international sphere, including power relations and gender relations (Sylvester, 1994, p. 6; see also Enloe, 1996) – allows critical scholars to look beyond the disciplinary obsession with war. Further, it allows us to investigate one of the simplest insights of feminist IR, which is also one of the most devastating: the war/peace dichotomy is gendered, misleading and potentially pathological. In this essay, I address each of these concerns in turn, developing a critique of the war/peace dichotomy that is foundational to conventional approaches to IR through a review of three recent publications in the field of feminist security studies. These texts are Cynthia Enloe's (2007) Globalization and Militarism, David Roberts' (2008) Human Insecurity, and Mothers, Monsters, Whores: Women's Violence in Global Politics by Laura Sjoberg and Caron Gentry (2008). Drawing on the insights of these books, I ask first how violence is understood in global politics, with specific reference to the gendered disciplinary blindnesses that frequently characterise mainstream approaches. Second, I demonstrate how a focus on war and peace can neglect to take into account the politics of everyday violence: the violences of the in-between times that international politics recognises neither as 'war' nor 'peace' and the violences inherent to times of peace that are overlooked in the study of war. Finally, I argue that **feminist security studies offers an important corrective to the foundational assumptions of IR, which themselves can perpetuate the very instances of violence that they seek to redress**. If we accept the core insights of feminist security studies – the centrality of the human subject, the importance of particular configurations of masculinity and femininity, and the gendered conceptual framework that underpins the discipline of IR – we are encouraged to envisage a rather different politics of the global. From Boudica to Bhopal As Sjoberg and Gentry recount (2008, pp. 38–9), Boudica was an Iceni queen who led an uprising against the Roman forces occupying the British Isles circa 61 AD. Prior to launching the attack, Boudica's refusal to allow a Roman general to claim ownership of her land resulted in the rape of her two daughters as punishment. However, 'many inherited tales about Boudica do not emphasise her personal or political motivations, but the savage and unwomanly brutality of her actions' (Sjoberg and Gentry, 2008, p. 39). Almost two thousand years later and half a planet away, a toxic gas leak in 1984 at a Union Carbide plant in Bhopal, India caused the immediate deaths of approximately 3,000 people and left tens of thousands suffering the after-effects for decades (Roberts, 2008, p. 10). At first reading, little links these two accounts of quite different forms of violence. The first is an instance of violent resistance against imperial oppression, and Boudica has been vilified, her efforts delegitimised, in much the same way as many actors in 'small wars' tend to be in global politics today (see Barkawi, 2004). The second is perhaps more usefully seen as the result of structural violence, following Johan Galtung's explanation of the same, as 'violence where there is no such actor' (cited in Roberts, 2008, p. 18). However, by asking questions about Boudica and Bhopal that are born of a 'feminist curiosity' (Enloe, 2007, p. 1, p. 11), these texts demonstrate connections beyond the simplistic equation that is applicable to both: actor/structure plus violence equals death. In Human Insecurity, Roberts poses the question, 'What is violence?' (2008, p. 17). This is a question rarely asked in international relations. Violence is war: large-scale, state-dominated, much studied, war. However, the three texts under review here all offer more nuanced theories of violence that focus analytical attention on complex constructions of agency (institutional and international), structure, and the global context that is product and productive of such violence. Through an intricate and beautifully accessible analysis of modernity –'that pot of gold at the end of the global rainbow' (Enloe, 2007, p. 64) – Enloe encourages her readers to seek the connections between globalisation and militarisation, arguing that at the heart of this nexus lie important questions about violence and security. Roberts notes a broad dissatisfaction with the concept of 'human security' (2008, pp. 14–7), offering instead his investigative lens of 'human insecurity', defined as 'avoidable civilian deaths, occurring globally, caused by social, political and economic institutions and structures, built and operated by humans and which could feasibly be changed' (p. 28). Placing the human at the centre of concerns about security immediately challenges a conventional state-based approach to security, as Enloe explains. In a convincing account of the hard-fought expansion of the concept of security, mapped on to strategic and organisational gains made by various feminist organisations, Enloe reminds us that **if we take seriously the lives of women – their understandings of security – as well as on-the-ground workings of masculinity and femininity, we will be able to produce more meaningful and more reliable analyses of 'security'– personal, national and global** (Enloe, 2007, p. 47). This latter quote typifies an approach for which Enloe has become somewhat famous. In the early 1980s, Enloe began asking the questions for which she is rightly acknowledged as a key figure in feminist security studies, including Does Khaki Become You? (Enloe, 1983) and 'where are the women?' (Enloe, 2000; see also Enloe, 2004). Inspired by her own curiosity about the roles played by women and the functions performed by gender in the militarisation of civilian life, Enloe has explored prostitution, marriage, welfare and war making with an eye to the representation (both political and symbolic) of women. In Globalization and Militarism she offers detailed vignettes that illuminate just how interwoven violence is with the quest for (various types of) security, and demands that nothing is left unquestioned in a critical analysis of these concepts. Even baby socks (embossed with tiny fighter planes, a gift to the parent of a small boy) have something to tell us about gender, militarism and the casual representations of violence and war that society accepts (Enloe, 2007, pp. 143–4). Following a similar logic, although he initially defines human insecurity as avoidable civilian deaths, Roberts focuses on 'preventable female deaths ... and avoidable deaths in children under five' (2008, p. 31). While this conflation of 'civilian' with 'women and children' is rather problematic (see Carpenter, 2006), in asking not only, where are the women? but also, why are they dying in such disproportionate numbers? Roberts enhances his critique of 'most security studies ... [that] largely [miss] the scale of avoidable human misery and avoidable human death' (2008, p. 4). As mentioned above, Roberts uses Galtung's concept of structural violence to draw attention to the manifest ways in which an increasingly interconnected global system relies on gender and violence (and gendered violence) for its perpetuation: 'The process of globalization, to which few are ideologically or otherwise opposed, is an essential conveyor and articulator of the masculinity that underpins andrarchy' (Roberts, 2008, p. 157). Whereas Enloe offers a persuasive and accessible account of patriarchy, a concept familiar to feminist and non-feminist scholars alike (Enloe, 2007, pp. 66–8), Roberts suggests 'andrarchy' as an alternative, which he defines as 'the gender-partisan ideological domination and rule structure that determines and sustains the general relative power of males over females globally' (Roberts, 2008, p. 140). However, it is difficult to see how this reformulation either differs substantively from patriarchy as an analytical tool or assists in the construction of an alternative theory of global violence that centralises the individual, and therefore takes gender seriously, in that it seems to essentialise violent actors (males) and violated victims (females). In contrast, Enloe's explanation of patriarchy challenges such essentialism as its first point of critical intervention. That is, the assumption of essential differences between men and women is part of patriarchal ideology, feeding into stereotypical notions of how such men and women should behave, which in turn constitute recognisable discourses of gender: sets of narratives about masculinity and femininity and how these are, in general, respectively privileged and marginalised. The most theoretically coherent account of gender and violence offered in these three texts comes from Sjoberg and Gentry and employs the notion of discourse to great effect. Whereas Roberts seeks to map out a consciously structural account of global violence, where the structure in question is a hybrid of andrarchy and a 'rapacious, increasingly competitive and hyper-masculine' neoliberalism (Roberts, 2008, p. 118), Sjoberg and Gentry offer a more sophisticated analysis of structure and agency in their 'relational autonomy framework' that accounts for both individual agency and structural constraint (Sjoberg and Gentry, 2008, pp. 189–98). When people perform acts of political violence, they argue, this is a conscious choice, but crucially individuals 'choose within a specified spectrum of socially acceptable choices' (p. 190). 'In its simplest form, relational autonomy is the recognition that freedom of action is defined and limited by social relationships' (p. 194) and this has profound implications for the study of violence in global politics. Sjoberg and Gentry use this insight to demonstrate that women's violence in global politics is rendered unintelligible, through narrative representations of the perpetrators as mothers, monsters or whores (in media discourse and academic discussion), rather than as autonomous agents. From the abuses of prisoners held at Abu Ghraib prison in Iraq, via the 'black widows' of Chechnya, to female perpetrators of genocidal violence in Rwanda, the authors show how representations of women's violence conform to and further confirm the stereotypes of violent women as either mothers (supporting or vengeful), monsters or sexually deviant whores (Sjoberg and Gentry, 2008, pp. 30–49). The very different theories of violence outlined in these three texts all contribute to the development of a more comprehensive and holistic understanding of violence in global politics. By insisting that international relations are also gender relations – by demanding that we recognise that states are an analytical abstraction and politics is practised or performed by gendered bodies – all of the authors put forward theories of violence that are corrective of gender blindness, in that the violences in question are simultaneously gendered and gendering (see Shepherd, 2008, pp. 49–54). They are gendered because they have different impacts on male and female bodies (Enloe, 2007, p. 13), both materially as people experience violence differently depending on their gender (and race, class, sexuality and so on) and also discursively, as what we expect of men and women in terms of their behaviours, violent and otherwise, is limited by the meaning(s) ascribed to male and female bodies by society. Regarding the former, Roberts proposes that we term the global victimisation of women 'structural femicide' (Roberts, 2008, p. 65), but does not sufficiently engage with the question of whether defining gendered violence as violence against women (and children) functions to constitute the subject of 'woman' as a perpetual victim, in need of protection and lacking in agency (Shepherd, 2008, p. 41). In contrast, Sjoberg and Gentry neatly articulate the interplay between material and discursive violence as they write a theory that accounts 'for people's impact on global politics and for the impact of narratives others construct for and about them' (Sjoberg and Gentry, 2008, p. 216, emphasis in original). Thus, violence is gendering as our understanding of politics is in part reproduced through violent actions. Through discursive violence against individuals – for example, representing Chechen women suicide terrorists as 'black widows', which demands that they are attributed the characteristics of the venomous and deadly black widow spider and, further, that their violence is grounded in familial loss, 'born directly of a desire for vengeance for the deaths of their husbands and sons' (Sjoberg and Gentry, 2008, p. 100) rather than as the result of a process of political decision making – our understanding of that individual and of the act of violence itself is produced. Similarly, through material acts of violence, discourses of gender are given physical form; the detainees at Abu Ghraib who were forced to simulate oral sex with each other were forced to do so in part because of crude cultural understandings of homosexuality as deviant and homosexuals as lesser men – that is, as women. To force a man to perform oral sex on another man is to undermine his masculinity and simultaneously to reinforce the gendered power relations that claim privilege for masculinity over femininity, heterosexuality over homosexuality – power relations that render such an act intelligible in the first instance. Such understandings of violence are beyond the remit of conventional state-based approaches to international relations. However, 'it is by tracking the gendered assumptions about how to wield feminization to humiliate male[s]' (Enloe, 2007, p. 115) and how to represent gendered individuals in such a way as to render some acts of violence intelligible as political and others as monstrous that we can begin to piece together a useful feminist account of global violence, which is a necessary component of understanding security. Everyday Violence and In-Between Days In addition to questioning what violence is, how it is represented and with what effects, feminist security studies scholarship also asks which violences are considered worthy of study and when these violences occur. Expanding the concept of violence that underpins feminist analysis, as outlined above, allows us to take seriously what Arthur Kleinman (2000) refers to as 'the violences of everyday life'. Beyond a narrow focus on war and state-based violence lies a plethora of everyday violences that feminist security studies seeks to address. In the field of security studies the broadening and deepening of the concept of security, such that it is no longer assumed to apply only to the sovereign state, has demonstrated the multiple insecurities experienced by individuals and social collectives (Booth, 2005, pp. 14–5). The development of the concept of 'human security' largely took place within the parameters of a wider disciplinary debate over the appropriate referent object for security studies (the individual, society, the state) and the types of threat to the referent object that would be recognised. In a move similar to Ken Booth's (1991) reformulation of security as emancipation, Roberts' quest for individual empowerment seeks to overcome the 'élite-legitimized disequilibrium' that results in the manifest insecurity of the majority of the world's population (Roberts, 2008, p. 185). As might be expected, the violences Roberts identifies are innumerable. In addition to the physical violences of 'infanticide, maternal mortality, intimate ("domestic", "honour" and "dowry") killings and lethal female genital mutilation; and avoidable deaths in children under five' (Roberts, 2008, p. 31), his analysis attacks the institutional structures of the dominant international financial institutions (pp. 117–35) and the andrarchal and neoliberal discourses that sustain them (pp. 136–58). In short, Roberts' answer to the question of which violences matter in global politics is quite simple: all of them. However, while studies of human security, he argues, seek to provide the human with security, his reformulated analytic takes as its starting point human insecurity; that is, he starts with the threat(s) to the sovereign subject rather than the subject's ontological condition. Roberts suggests that this circumvents the disciplinary definitional problem with human security – identified by Roland Paris (2001), Edward Newman (2001; 2004) and others – but I cannot see how this is the case, given that the answer to the question 'what is it that humans do to make the world a more dangerous and dysfunctional place?' (Roberts, 2008, p. 28) is also quite simple: we live in it. Thus Roberts' analytic seems to suffer the same lack of definitional clarity – and therefore policy relevance – that he ascribes to more conventional approaches; it is no easier to identify, quantify and ultimately reduce the threats experienced by coexisting human subjects than it is to provide those human subjects with security, if security can first be defined as freedom from fear or want. I do not espouse some construction of human nature (if such a thing were to exist) that assumes essential selfishness and a propensity for violence, nor do I assume that security is a zero-sum game, in that one person's security must always be at the expense of another's, but I recognise that even the most well-intentioned security policy can have unforeseen and sometimes disastrous effects. Sometimes, moreover, as Sjoberg and Gentry demonstrate, the decision to perform acts of political violence that are a source of insecurity for the intended victims can be understood if not condoned. Enloe's analytical remit is similarly wide-ranging to Roberts', in that she focuses on processes – globalisation and militarism – that are inherently violent. However, although Enloe also insists that all violences should count in the study of global politics, she grounds this claim in an analysis of specific sites of violence and demonstrates with startling clarity just how everyday items – for example, sneakers – are both globalised and militarised: Threaded through virtually every sneaker you own is some relationship to masculinized militaries. Locating factories in South Korea [in the 1960s and 1970s] was a good strategic decision in the eyes of those Oregon-headquartered male Nike executives because of the close alliance between male policymakers in Washington and Seoul. It was a relationship – unequal but intimate – based on their shared anticommunism, their shared commitment to waging the Cold War, and their shared participation in an ambitious international military alliance (Enloe, 2007, p. 28). By drawing her readers' attention to the ways in which discourses of gender (ideas about how 'proper' men and women should behave) function, Enloe reminds us that adhering to ideals of masculinity and femininity is both productive of violence and is a violence in itself, a violence against the empowered human subject. 'Ideas matter', she concludes, ideas about modernity, security, violence, threat, trust. 'Each of these ideas is fraught with blatant and subtle presumptions about masculinity and femininity. Ideas about both masculinity and femininity matter. This makes a feminist curiosity a necessity' (Enloe, 2007, p. 161). While conventional studies of IR and security may be willing to concede that ideas matter (see Finnemore and Sikkink, 2001), paying close attention to the work that gender does allows for a fuller understanding of why it is that particular violences fall outside the traditional parameters of study. As to the question of when violence is worthy of study, all three texts implicitly or explicitly draw on the popular feminist phrase: 'the personal is political'. This slogan neatly encapsulates the feminist critique of a supposed foundational divide between the private and the public realms of social life. In arguing that the personal is political, feminist theory refuses to accept that there are instances of human behaviour or situations in social life that can or should be bracketed from study. At its simplest, this critique led to the recognition of 'domestic violence' as a political, rather than a personal issue (see, for example Moore, 2003; Youngs, 2003), forming the foundation for critical studies of gendered violence in times of war and in times of peace that would otherwise have been ignored. Crucially, Enloe extended the boundaries of critique to include the international, imbuing the phrase with new analytical vitality when she suggested, first, that the phrase itself is palindromic (that is, that the political is also personal, inextricably intertwined with the everyday) and, second, that the personal is international just as the international is personal. 'The international is personal' implies that governments depend upon certain kinds of allegedly private relationships in order to conduct their foreign affairs. ... To operate in the international arena, governments seek other governments' recognition of their sovereignty; but they also depend on ideas about masculinised dignity and feminised sacrifice to sustain that sense of autonomous nationhood (Enloe, 2000, pp. 196–7). These ideas about dignity and sacrifice are not neatly contained within the temporal boundaries of any given war, nor are they incidental to the practice of warfare. Further, there is of course also the question of who gets to define or declare war, or peace. While some of the violent women whose actions are analysed by Sjoberg and Gentry perform their violences in wartime (for example, Lynndie England, who received the most attention from global media of the women involved in prisoner abuse at Abu Ghraib; see Sjoberg and Gentry, 2008, pp. 67–70), others are fighting wars that are not sanctioned by the international community (such as the Chechen women [pp. 97–111] and female Palestinian suicide bombers [pp. 112–40]). As discussed above, ideas about masculinity and femininity, dignity and sacrifice may not only be violent in themselves, but are also the product/productive of physical violences. With this in mind, the feminist argument that 'peacetime' is analytically misleading is a valid one. Of interest are the 'in-between days' and the ways in which **labelling periods of war or peace as such can divert attention away from the myriad violences that inform and reinforce social behaviour**. [W]ar can surely never be said to start and end at a clearly defined moment. Rather, it seems part of a continuum of conflict, expressed now in armed force, now in economic sanctions or political pressure. A time of supposed peace may come later to be called 'the pre-war period'. During the fighting of a war, unseen by the foot soldiers under fire, peace processes are often already at work. A time of postwar reconstruction, later, may be re-designated as an inter bellum– a mere pause between wars (Cockburn and Zarkov, cited in El Jack, 2003, p. 9). Feminist security studies interrogates the pauses between wars, and the political processes – and practices of power – that demarcate times as such. In doing so, not only is the remit of recognisable violence (violence worthy of study) expanded, but so too are the parameters of what counts as IR. Everyday violences and acts of everyday resistance ('a fashion show, a tour, a small display of children's books' in Enloe, 2007, pp. 117–20) are the stuff of relations international and, thus, of a comprehensive understanding of security. In the following section I outline the ways in which taking these claims seriously allows us to engage critically with the representations of international relations that inform our research, with potentially profound implications. The Violent Reproduction of the International As well as conceiving of gender as a set of discourses, and violence as a means of reproducing and reinforcing the relevant discursive limits, **it is possible to see security as a set of discourses**, as I have argued more fully elsewhere (Shepherd, 2007; 2008; see also Shepherd and Weldes, 2007). Rather than pursuing the study of security as if it were something that can be achieved either in absolute, partial or relative terms, **engaging with security as discourse enables the analysis of how these discourses function to reproduce, through various strategies, the domain of the international with which IR is self-consciously concerned**. Just as violences that are gendering reproduce gendered subjects, on this view states, acting as authoritative entities, perform violences, but violences, in the name of security, also perform states. These processes occur simultaneously, and across the whole spectrum of social life: an instance of rape in war is at once gendering of the individuals involved and of the social collectivities – states, communities, regions – they feel they represent (see Bracewell, 2000); building a fence in the name of security that separates people from their land and extended families performs particular kinds of violence (at checkpoints, during patrols) and performs particular subject identities (of the state authority, of the individuals affected), all of which are gendered. All of the texts under discussion in this essay argue that it is imperative to explore and expose gendered power relations and, further, that doing so not only enables a rigorous critique of realism in IR but also reminds us as scholars of the need for such a critique. The critiques of IR offered by feminist scholars are grounded in a rejection of neo-realism/realism as a dominant intellectual framework for academics in the discipline and policy makers alike. As Enloe reminds us, 'the government-centred, militarized version of national security [derived from a realist framework] remains the dominant mode of policy thinking' (Enloe, 2007, p. 43). Situating gender as a central category of analysis encourages us to 'think outside the "state security box"' (p. 47) and to remember that 'the "individuals" of global politics do not work alone, live alone or politic alone – they do so in interdependent relationships with others' (Sjoberg and Gentry, 2008, p. 200) that are inherently gendered. One of the key analytical contributions of all three texts is the way in which they all challenge what it means to be 'doing' IR, by recognising various forms of violence, interrogating the public/private divide and demanding that attention is paid to the temporal and physical spaces in-between war and peace. Feminist security studies should not simply be seen as 'women doing security', or as 'adding women to IR/security studies', important as these contributions are. Through their theorising, the authors discussed here reconfigure what 'counts' as IR, challenging orthodox notions of who can 'do' IR and what 'doing' IR means. The practices of power needed to maintain dominant configurations of international relations are exposed, and critiquing the productive power of realism as a discourse is one way in which the authors do this. Sjoberg and Gentry pick up on a recent theoretical shift in Anglo-American IR, from system-level analysis to a recognition that individuals matter. However, as they rightly point out, the individuals who are seen to matter are not gendered relational beings, but rather reminiscent of Hobbes' construction of the autonomous rational actor. '[T]he narrowness of the group that [such an approach] includes limits its effectiveness as an interpretive framework and reproduces the gender, class and race biases in system-level international relationship scholarship' (Sjoberg and Gentry 2008, p. 200, emphasis added). Without paying adequate attention to the construction of individuals as gendered beings, or to the reproduction of widely held ideas about masculine and feminine behaviours, Sjoberg and Gentry remind us that we will ultimately fail 'to see and deconstruct the increasingly subtle, complex and disguised ways in which gender pervades international relations and global politics' (2008, p. 225). In a similar vein, Roberts notes that 'human security is marginalised or rejected as inauthentic [because] it is not a reflection of realism's (male) agendas and priorities' (2008, p. 169). The 'agendas and priorities' identified by Roberts and acknowledged by Sjoberg and Gentry as being productive of particular biases in scholarship are not simply 'academic' matters, in the pejorative sense of the term. As Roberts argues, 'Power relationships of inequality happen because they are built that way by human determinism of security and what is required to maintain security (p. 171). Realism, as academic discourse and as policy guideline, has material effects. Although his analysis employs an unconventional definition of the term 'social construction' (seemingly interchangeable with 'human agency') and rests on a novel interpretation of the three foundational assumptions of realism (Roberts, 2008, pp. 169–77), the central point that Roberts seeks to make in his conclusion is valid: 'it is a challenge to those who deny relationships between gender and security; between human agency (social construction) and lethal outcome' (p. 183). In sum, all three texts draw their readers to an inescapable, and – for the conventional study of IR – a devastating conclusion: the dominance of neo-realism/realism and the state-based study of security that derives from this is potentially pathological, in that it is in part productive of the violences it seeks to ameliorate. I suggest that critical engagement with orthodox IR theory is necessary for the intellectual growth of the discipline, and considerable insight can be gained by acknowledging the relevance of feminist understandings of gender, power and theory. The young woman buying a T-shirt from a multinational clothing corporation with her first pay cheque, the group of young men planning a stag weekend in Amsterdam, a group of students attending a demonstration against the bombing of Afghanistan – studying these significant actions currently falls outside the boundaries of doing security studies in mainstream IR and I believe these boundaries need contesting. As Marysia Zalewski argues: International politics is what we make it to be ... We need to rethink the discipline in ways that will disturb the existing boundaries of both that which we claim to be relevant in international politics and what we assume to be legitimate ways of constructing knowledge about the world (Zalewski 1996, p. 352, emphasis in original). Conclusion: 'Let a Hundred Flowers Bloom, Let a Hundred Schools of Thought Contend' (Mao Tse-Tung) In this essay, I have used the analysis of three contemporary publications in the field of feminist security studies to demonstrate three significant sets of analytical contributions that such scholarship makes to the discipline of IR. Beyond the war/peace dichotomy that is frequently assumed to be definitive of the discipline, we find many and various forms of violence, occurring in and between temporally distinct periods of conflict, which are the product/productive of socially acceptable modes of gendered behaviour, ways of being in the world as a woman or man. I have also argued that critical engagement with conventional, state-based approaches to (national) security must persist as the academic discourses we write are complicit in the construction of the global as we understand it. Further, **'if all experience is gendered, analysis of gendered identities is an imperative starting point in the study of political identities and practice'** (Peterson, 1999, p. 37). To this end, I conclude by suggesting that we take seriously Enloe's final comment: 'Tracking militarization and fostering demilitarization will call for cooperative investigations, multiple skills and the appreciation of diverse perspectives' (2007, p. 164). While there has been intense intra-disciplinary debate within contemporary feminist security studies over the necessary 'feminist credentials' of some gendered analyses, it is important to recognise the continual renewal and analytical vigour brought to the field by such debates. Broadly speaking, there are two positions we might map. On the one side, there are those who refuse to reduce gender to a variable in their research, arguing that to do so limits the critical insight that can be gained from treating gender instead as a noun, a verb and a structural logic (see, for example, Sjoberg, 2006; Zalewski, 2007). On this view, 'gender', whether deployed as noun, verb or logic in a particular analysis, cannot be separated from the decades of feminist scholarship that worked to explore, expand on and elucidate what gender might mean. On the opposing side are scholars who, typically using phrases such as 'balanced consideration' (Jones, 1998, p. 303) and 'an inclusive perspective on gender and war' (Griffiths, 2003, pp. 327–8, emphasis in original), manipulate gender as a variable in their research to 'extend the scope of feminist IR scholarship' (Caprioli, 2004, p. 266) and to draw conclusions regarding sex-specific behaviours in conflict and post-conflict situations (see also Caprioli and Boyer, 2001; Carpenter, 2006; Melander, 2005). Crucially, however, scholarship on both sides of this 'divide' coexists, and in doing so encourages 'the appreciation of diverse perspectives'. While bracketing feminist politics from the study of gender is an overtly political move, which can be presented as either strategic (Carpenter, 2006, pp. 6–10) or as common sense, in that it 'enhances [the] explanatory capabilities' of feminist security studies (Caprioli, 2004, p. 266), all interrogations of security that take gender seriously draw attention to the ways in which gender is at once personal, political and international. Although it might seem that conceiving of gender as a variable adheres both to a disciplinary narrative that rewards positivist and abstract theory (without messy reference to bodies) and to a neo-/anti-/post-feminist narrative that claims 'we' have solved the gender problem (see Zalewski, 2007, p. 303), at the very least such approaches give credence to the idea that gender matters in global politics. Mary Caprioli suggests that 'IR feminists shattered the publishing boundary for feminist IR scholarship, and tackled the difficult task of deconstructing IR theory' (2004, p. 257). I would caution that it is perhaps too soon to represent the shattering and tackling as a fait accompli, but with the vital interjections of texts such as those discussed here, security studies scholars may yet envisage a politics of violence and human subjectivity that transcends the arbitrary disciplinary boundaries which constrain rather than facilitate understanding.

**Our alternative is to interrogate reality – failure to do so makes their methodology suspect**

**Peterson and Runyan 99** [professor of political science at the University of Arizona and professor of women’s studies at Wright State University, 1999 (V. Spike and Anne, Global Gender Issues, 2nd edition, p. 1-3)]

Whenever we study a topic, we do so through a lens that necessarily focuses our attention in particular ways. By filtering or "ordering" what we look at, each lens enables us to see some things in greater detail or more accurately or in better relation to certain other things. But this is unavoidably at the expense of seeing other things that are rendered out of focus--filtered out--by each particular lens. According to Paul Viotti and Mark Kauppi, various theoretical perspectives, or "images," of international politics contain certain assumptions and lead us "to ask certain questions, seek certain types of answers, and use certain methodological tools."1 For example, different images act as lenses and shape our assumptions about who the significant actors are (individuals? states? multinational corporations?), what their attributes are (rationality? self-interest? power?), how social processes are categorized (politics? cooperation? dependence?), and what outcomes are desirable (peace? national security? global equity?). The images or lenses we use have important consequences because they structure what we look for and are able to "see." In Patrick Morgan's words, "Our conception of [IR acts as a] map for directing our attention and distributing our efforts, and using the wrong map can lead us into a swamp instead of taking us to higher ground."2 What we look for depends a great deal on how we make sense of, or "order," our experience. We learn our ordering systems in a variety of contexts. From infancy on, we are taught to make distinctions enabling us to perform appropriately within a particular culture. As college students, we are taught the distinctions appropriate to particular disciplines (psy- chology, anthropology, political science) and particular schools of thought within them (realism, behavioralism, liberalism, structuralism). No matter in which context we learned them, the categories and ordering frameworks shape the lenses through which we look at, think about, and make sense of the world around us. At the same time, the lenses we adopt shape our experience of the world itself because they shape what we do and how and why we do it. For example, a political science lens focuses our attention on particular categories and events (the meaning of power, democracy, or elections) in ways that variously influence our behavior (questioning authority, protesting abuse of power, or participating in elec- toral campaigns). By filtering our ways of thinking about and ordering experience, the categories and images we rely on shape how we behave and thus the world we live in: They have concrete consequences. We observe this readily in the case of self-fulfilling prophecies: If we expect hostility, our own behavior (acting superior, displaying power) may elicit responses (defensive posturing, aggression) that we then interpret as "confirming" our expectations. It is in this sense that we refer to lenses and "realities" as interactive, interdependent, or mutually constituted. Lenses shape who we are, what we think, and what actions we take, thus shaping the world we live in. At the same time, the world we live in ("reality") shapes which lenses are available to us, what we see through them, and the likelihood of our using them in particular contexts. In general, as long as our lenses and images seem to "work," we keep them and build on them. Lenses simplify our thinking. Like maps, they "frame" our choices and exploration, enabling us to take advantage of knowledge already gained and to move more effectively toward our objectives. The more useful they appear to be, the more we are inclined to take them for granted and to resist making major changes in them. We forget that our particular ordering or meaning system is a choice among many alternatives. Instead, we tend to believe we are seeing "reality" as it "is" rather than as our culture or discipline or image interprets or "maps" reality. It is difficult and sometimes uncomfortable to reflect critically on our assumptions, to question their accuracy or desirability, and to explore the implications of shifting our vantage point by adopting a different lens. Of course, the world we live in and therefore our experiences are constantly changing; we have to continuously modify our images, mental maps, and ordering systems as well. The required shift in lens may be minor: from liking one type of music to liking another, from being a high school student in a small town to being a college student in an urban en- vironment. Or the shift may be more pronounced: from casual dating to parenting, from the freedom of student lifestyles to the assumption of full-time job responsibilities, from Newtonian to quantum physics, from East-West rivalry to post-Cold War complexities. Societal shifts are dramatic, as we experience and respond to systemic transformations such as economic restructuring, environmental degradation, or the effects of war. To function effectively as students and scholars of world politics, we must modify our thinking in line with historical developments. That is, as "reality" changes, our ways of understanding or ordering need to change as well. This is especially the case to the extent that outdated worldviews or lenses place us in danger, distort our understanding, or lead us away from our objectives. Indeed, as both early explorers and urban drivers know, outdated maps are inadequate, and potentially disastrous, guides.

**DA**

1NC Politics [PUT IN]

**Clean Debt Ceiling vote will pass**

**BLOOMBERG 9 – 20** – 13 Senate Budget Chief Sees Republican Yield on Debt Lifting, <http://www.bloomberg.com/news/2013-09-19/senate-budget-chief-sees-republican-yield-on-debt-lifting.html>

**Republicans seeking to curb** President Barack **Obama’s health-care law probably will capitulate to demands from Democrats to enact a “clean” bill raising the** nation’s **debt ceiling, the Senate’s top Democratic budget writer said.**

“**I see no deals** on the debt ceiling,” Senator Patty **Murray** of Washington state, who leads the Budget Committee, **said** in an interview on Bloomberg Television’s “Political Capital with Al Hunt” airing this weekend.

“The downside of not paying our bills is our credit-rating tanks,” Murray said. “That affects every family, every business, every community. It affects Main Street. It affects Wall Street.”

**Murray** said she also **expects Republicans to relent on their demands** for stripping spending from Obama’s health plan as part of action on a spending bill needed to keep the government running after Sept. 30.

**Republicans** led by House Speaker John Boehner of Ohio **have clashed with Obama** over the debt ceiling, **with the lawmakers demanding changes** to spending programs as a condition of raising the $16.7 trillion federal borrowing limit.

**Republicans “will come together with some mishmash policy** of everything in the bag they’ve ever promised” to anti-tax Tea Party activists, **though “they haven’t been able to get the votes for anything yet,”** said Murray, 62, fourth-ranking Democrat in the Senate’s leadership.

**Plan kills Obama’s agenda**

**KRINER 10 Assistant professor of political science at Boston University** [Douglas L. Kriner, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, page 276-77]

One of the mechanisms by which **congressional opposition influences presidential cost-benefit calculations** is by sending signals of American disunity to the target state. Measuring the effects of such congressional signals on the calculations of the target state is always difficult. In the case of Iraq it is exceedingly so, given the lack of data on the non-state insurgent actors who were the true “target” of the American occupation after the fall of the Hussein regime. Similarly, in the absence of archival documents, such as those from the Reagan Presidential Library presented in chapter 5, it is all but impossible to measure the effects of congressional signals on the administration’s perceptions of the military costs it would have to pay to achieve its objectives militarily.

By contrast. **measuring the domestic political costs of congressional opposition,** while still difficult, **is** at least **a tractable endeavor**. Chapter 2 posited **two primary pathways** through **which congressional opposition could raise the political costs of staying the course** militarily for the president. **First. high-profile congressional challenges** to a use of force **can affect real or anticipated public opinion and bring popular pressures to bear on the president** to change course. **Second, congressional opposition** to the president’s conduct of military affairs **can compel him to spend considerable political capital in the military arena to the detriment of other major items on his programmatic agenda**. On both of these dimensions, congressional opposition to the war in Iraq appears to have had the predicted effect.

**Losing authority would embolden the GOP on the debt ceiling fight**

**SEEKING ALPHA 9 – 10** – 13 [“Syria Could Upend Debt Ceiling Fight” <http://seekingalpha.com/article/1684082-syria-could-upend-debt-ceiling-fight>]

Unless President Obama can totally change a reluctant public's perception of another Middle-Eastern conflict, it seems unlikely that he can get 218 votes in the House, though he can probably still squeak out 60 votes in the Senate. This defeat would be totally unprecedented as **a President has never lost a military authorization vote** in American history. **To forbid the Commander-in-Chief of his primary power renders him all but impotent**. At this point, a rebuff from the House is a 67%-75% probability.

I reach this probability by looking within the whip count. I assume the 164 declared "no" votes will stay in the "no" column. To get to 218, Obama needs to win over 193 of the 244 undecided, a gargantuan task. Within the "no" column, there are 137 Republicans. Under a best case scenario, Boehner could corral 50 "yes" votes, which would require Obama to pick up 168 of the 200 Democrats, 84%. Many of these Democrats rode to power because of their opposition to Iraq, which makes it difficult for them to support military conflict. The only way to generate near unanimity among the undecided Democrats is if they choose to support the President (recognizing the political ramifications of a defeat) despite personal misgivings. The idea that all undecided Democrats can be convinced of this argument is relatively slim, especially as there are few votes to lose. In the best case scenario, the House could reach 223-225 votes, barely enough to get it through. Under the worst case, there are only 150 votes. Given the lopsided nature of the breakdown, the chance of House passage is about one in four.

While a failure in the House would put action against Syria in limbo, I have felt that the market has overstated the impact of a strike there, which would be limited in nature. Rather, investors should focus on the profound ripple through the power structure in Washington, which would greatly impact impending battles over **spending and the** debt ceiling. Currently, the government loses spending authority on September 30 while it hits the debt ceiling by the middle of October. Markets have generally felt that Washington will once again strike a last-minute deal and avert total catastrophe. Failure in the Syrian vote could change this. For the Republicans to beat Obama on a President's strength (foreign military action), they will likely be **emboldened that they can beat him on domestic spending issues.** Until now, consensus has been that the two sides would compromise to fund the government at sequester levels while passing a $1 trillion stand-alone debt ceiling increase. However, the right wing of Boehner's caucus has been pushing for more, including another $1 trillion in spending cuts, defunding of Obamacare, and a one year delay of the individual mandate. Already, Conservative PACs have begun airing advertisements, urging a debt ceiling fight over Obamacare. **With the President rendered hapless** on Syria, **they will become even more vocal** about their hardline resolution, **setting us up for a showdown** that will rival 2011's debt ceiling fight.

I currently believe the two sides will **pass a short-term** continuing **resolution** to keep the government open, **and** then the GOP will wage a massive fight over the debt ceiling. While Obama will be weakened, he will be unwilling to undermine his major achievement, his healthcare law. In all likelihood, both sides will dig in their respective trenches, unwilling to strike a deal, essentially **in a game** of chicken. If the House blocks Syrian action, it will take America as close to a default as it did in 2011. Based on the market action then, we can expect massive volatility in the final days of the showdown with the Dow falling 500 points in one session in 2011. As markets panicked over the potential for a U.S. default, we saw a massive risk-off trade, moving from equities into Treasuries. I think there is a significant chance we see something similar this late September into October. The Syrian vote has major implications on the power of Obama **and** **the** **far-right** when it comes to their **willingness to fight over the debt ceiling**. If the Syrian resolution fails, the debt ceiling fight will be even worse, which will send equities lower by upwards of 10%.

Investors must be prepared for this "black swan" event. Looking back to August 2011, stocks that performed the best were dividend paying, less-cyclical companies like Verizon (VZ), Wal-Mart (WMT), Coca-Cola (KO) and McDonald's (MCD) while high beta names like Netflix (NFLX) and Boeing (BA) were crushed. Investors also flocked into treasuries despite default risk while dumping lower quality bonds as spreads widened. The flight to safety helped treasuries despite U.S. government issues. I think we are likely to see a similar move this time. Assuming there is a Syrian "no" vote, I would begin to roll back my long exposure in the stock market and reallocate funds into treasuries as I believe yields could drop back towards 2.50%. Within the stock market, I think the less-cyclical names should outperform, making utilities and consumer staples more attractive. For more tactical traders, I would consider buying puts against the S&P 500 and look toward shorting higher-beta and defense stocks like Boeing and Lockheed Martin (LMT). I also think lower quality bonds would suffer as spreads widen, making funds like JNK vulnerable. Conversely, gold (GLD) should benefit from the fear trade. I would also like to address the potential that Congress does not vote down the Syrian resolution. First, news has broken that Russia has proposed Syria turn over its chemical stockpile. If Syria were to agree (Syria said it was willing to consider), the U.S. would not have to strike, **canceling the congressional vote**. The proposal can be found here. I strongly believe this is a delaying tactic rather than a serious effort. In 2005, Libya began to turn over chemical weapons; it has yet to complete the hand-off. Removing and destroying chemical weapons is an exceptionally challenging and dangerous task that would take years, not weeks, making this deal seem unrealistic, especially because a cease-fire would be required around all chemical facilities. The idea that a cease-fire could be maintained for months, essentially allowing Assad to stay in office, is hard to take seriously. I believe this is a delaying tactic, and Congress will have to vote within the next two weeks. The final possibility is that Democrats back their President and barely ram the Syria resolution through. I think the extreme risk of a full-blown debt stand-off to dissipate. However, Boehner has promised a strong fight over the debt limit that the market has largely ignored. **I do believe the fight would still be worse than the market anticipates but not outright** disastrous. As such, I would not initiate short positions, but I would trim some longs and move into less cyclical stocks as the risk would still be the debt ceiling fight leading to some drama not no drama. Remember, **in politics everything is connected**. Syria is not a stand-alone issue. Its resolution will impact the power structure in Washington. A failed vote in Congress is likely to make the debt ceiling fight even worse, spooking markets, and threatening default on U.S. obligations unless another last minute deal can be struck.

**Destroys the global economy**

**DAVIDSON 9 – 15** – 13 co-founder and co-host of Planet Money, a co-production of the NYT and NPR [Adam Davidson, Our Debt to Society, <http://www.nytimes.com/2013/09/15/magazine/our-debt-to-society.html?pagewanted=all&_r=1&>]

The Daily Treasury Statement, a public accounting of what the U.S. government spends and receives each day, shows how money really works in Washington. On Aug. 27, the government took in $29 million in repaid agricultural loans; $75 million in customs and duties; $38 million in the repayment of TARP loans; some $310 million in taxes; and so forth. That same day, the government also had bills to pay: $247 million in veterans-affairs programs; $2.5 billion to Medicare and Medicaid; $1.5 billion each to the departments of Education and Defense. By the close of that Tuesday, when all the spending and the taxing had been completed, the government paid out nearly $6 billion more than it took in.

This is the definition of a deficit, and it illustrates why **the government needs to borrow money almost every day** to pay its bills. Of course, **all that daily borrowing adds up, and we are rapidly approaching what is called the X-Date** — **the day**, somewhere in the next six weeks, **when the government, by law, cannot borrow another penny.** Congress has imposed a strict limit on how much debt the federal government can accumulate, but for nearly 90 years, it has raised the ceiling well before it was reached. But **since** a large number of **Tea Party**-aligned Republicans **entered the House** of Representatives, in 2011, **raising that debt ceiling has become a matter of fierce debate**. This summer, **House Republicans have promised**, **in** Speaker John **Boehner’s words, “a whale of a fight**” before they raise the debt ceiling — **if they even raise it at all.**

**If the** debt **ceiling isn’t lifted** again this fall, **some serious financial decisions will have to be made**. Perhaps the government can skimp on its foreign aid or furlough all of NASA, but eventually the big-ticket items, like Social Security and Medicare, will have to be cut. At some point, **the government won’t be able to pay** **interest on its bonds and will enter** what’s known as **sovereign default,** **the ultimate national financial disaster** achieved by countries like Zimbabwe, Ecuador and Argentina (and now Greece). In the case of the United States, though, **it won’t be an isolated national crisis.** **If the American government can’t stand behind the dollar, the world’s benchmark currency, then the global financial system** **will** very likely **enter a new era** in which there is **much less trade and much less economic growth**. **It would be**, by most accounts, **the largest self-imposed financial disaster in history**.

**Nearly everyone involved predicts that someone will blink** **before** this **disaster** occurs. **Yet a small number of House Republicans** (one political analyst told me it’s no more than 20) **appear willing to see what happens if the debt ceiling isn’t raised** — at least for a bit. **This could be used as leverage** to force Democrats to drastically cut government spending and eliminate President Obama’s signature health-care-reform plan. In fact, Representative Tom Price, a Georgia Republican, told me that the whole problem could be avoided if the president agreed to drastically cut spending and lower taxes. **Still, it is hard to put this act of game theory into historic context**. Plenty of countries — and some cities, like Detroit — have defaulted on their financial obligations, but only because their governments ran out of money to pay their bills. **No wealthy country has ever voluntarily decided** — in the middle of an economic recovery, no less — **to default. And there’s certainly no record** of that happening to the country that controls the global reserve currency.

Like many, **I assumed a self-imposed** U.S. **debt crisis might unfold like most involuntary ones**. If the debt ceiling isn’t raised by X-Day, I figured, the **world’s investors would begin to see America as an unstable investment and rush to sell their Treasury bonds**. **The** U.S. **government**, desperate to hold on to investment, **would then raise interest rates far higher**, hurtling up rates on credit cards, student loans, mortgages and corporate borrowing — **which would effectively put a clamp on all trade and spending**. **The** U.S. **economy would collapse** far worse than anything we’ve seen in the past several years.

Instead, Robert **Auwaerter**, **head of bond investing for Vanguard**, the world’s largest mutual-fund company, **told me that the collapse might be more insidious**. “You know what happens **when the market gets upset?”** he said. “**There’s a flight to quality**. Investors buy Treasury bonds. It’s a bit perverse.” **In other words, if the U.S. comes within shouting distance of a default** (which Auwaerter is confident won’t happen), **the world’s investors** — absent a safer alternative, given the recent fates of the euro and the yen — **might actually buy even more Treasury bonds**. Indeed, interest rates would fall and the bond markets would soar.

While this possibility might not sound so bad, **it’s really far more damaging than the apocalyptic one** I imagined. **Rather than resulting in a sudden crisis, failure** to raise the debt ceiling **would lead to a slow bleed**. Scott **Mather**, head of the global portfolio at Pimco, the world’s largest private bond fund, **explained that while governments and institutions might go on a** U.S.-**bond buying frenzy** in the wake of a debt-ceiling panic, **they would eventually recognize that the** U.S. **government was not going through an odd, temporary bit of insanity. They would eventually conclude that it had become permanently less reliable.** Mather imagines **institutional investors and governments turning to a basket of currencies**, putting their savings in a mix of U.S., European, Canadian, Australian and Japanese bonds. Over the course of decades, **the U.S. would lose its unique role in the global economy**.

**The U.S. benefits enormously from its status as global reserve currency** **and safe haven**. Our interest and mortgage rates are lower; companies are able to borrow money to finance their new products more cheaply. As a result, there is much more economic activity and more wealth in America than there would be otherwise. **If that status erodes, the U.S. economy’s peaks will be lower and recessions deeper**; future generations will have fewer job opportunities and suffer more when the economy falters. **And**, Mather points out, **no other country would benefit from America’s diminished status**. When you make the base risk-free asset more risky, **the entire global economy becomes riskier and costlier**.

**Global nuke wars**

**Kemp 10**—Director of Regional Strategic Programs at The Nixon Center, served in the White House under Ronald Reagan, special assistant to the president for national security affairs and senior director for Near East and South Asian affairs on the National Security Council Staff, Former Director, Middle East Arms Control Project at the Carnegie Endowment for International Peace [Geoffrey Kemp, 2010, *The East Moves West: India, China, and Asia’s Growing Presence in the Middle East*, p. 233-4]

The second scenario, called Mayhem and Chaos, is the opposite of the first scenario; everything that can go wrong does go wrong. **The world economic situation weakens rather than strengthens**, and **India, China, and Japan suffer a major reduction in their growth rates**, further **weakening the global economy**. As a result, **energy demand falls and the price of fossil fuels plummets, leading to a financial crisis for the energy-producing states, which are forced to cut back dramatically on expansion programs and social welfare. That** in turn **leads to political unrest: and nurtures** different **radical groups**, **including**, but not limited to, **Islamic extremists**. The **internal stability** **of** some **countries is challenged**, and **there are more “failed states**.” Most serious is **the collapse of the democratic government in Pakistan and its takeover by Muslim extremists, who then take possession of a large number of nuclear weapons. The danger of war between India and Pakistan increases significantly**. **Iran**, always worried about an extremist Pakistan, expands and **weaponizes its nuclear program. That** further **enhances nuclear proliferation in the Middle East, with Saudi Arabia, Turkey, and Egypt joining Israel and Iran as nuclear states.** Under these circumstances, **the potential for nuclear terrorism increases, and the possibility of a nuclear terrorist attack in either the Western world or in the oil-producing states may lead to a further devastating collapse of the world economic market, with a tsunami-like impact on stability. In this scenario, major disruptions can be expected, with dire consequences for two-thirds of the planet’s population**.

**Drones CP**

### 1nc – counterplan

**Text: The United States federal government should pass a statute granting a right to sue in any federal court on claims that the government improperly unleashed drones with subsequent damages if legal rules were found to be violated. The United States federal government should assign jurisdiction to specific judicial districts and strip the executive of the invocation of the “state secrets” and “political question” doctrines.**

**The CP solves the case through ex post review rather than ex ante or before the fact judicial interference**

**Epps 13** (Garrett Epps, Professor of Law at the University of Baltimore, “Why a Secret Court Won’t Solve the Drone-Strike Problem,” The Atlantic, February 16, 2013, http://www.theatlantic.com/politics/archive/2013/02/why-a-secret-court-wont-solve-the-drone-strike-problem/273246/)

Finally, some scholars have suggested that the Congress create a new "cause of action"--a right to sue in an ordinary federal court on a claim that the government improperly unleashed drones on a deceased relative. The survivors of the late Anwar al-Awlaki tried such a suit, and the Obama administration has so far insisted that it concerns "political questions," not fitted for judicial proceedings. **Congress could pass a statute specifically granting a right to sue in a federal district court.**

Without careful design, that would actually not make things any better. The survivors will file their complaint; the administration will claim state secrets and refuse to provide information. A court might reject the secrets claim and order the government to produce discovery. The administration would probably refuse to comply. The court's recourse would be to order judgment for the plaintiffs. The dead person's family would get some money, but we'd be no closer to accountability for the drone-strike decision.

Professor Stephen I. Vladeck of American University has offered a remedy to this problem. He proposes a statute in which Congress assigns jurisdiction to a specific judicial district, probably the District Court for the District of Columbia. Congress in the statute would strip the executive of such defenses as "state secrets" and "political question." Survivors of someone killed in a drone attack could bring a wrongful-death suit. The secret evidence would be reviewed by the judge, government lawyers, and the lawyers for the plaintiff. Those lawyers would have to have security clearance; the evidence would not be shown to the plaintiffs themselves, or to the public. After review of the evidence, the court would rule. If the plaintiffs won, they would receive only symbolic damages--but they'd also get a judgment that the dead person had been killed illegally.

**Solvency**

President will not abide. Congress will inevitably fall in line

**Bell 4**—Professor of Political Science @ Randolph-Macon College [Lauren Cohen Bell, “Following the Leaders or Leading the Followers? The US President's Relations with Congress,” Journal of Legislative Studies, Summer/Autumn, 2004, Vol. 10 Issue 2/3, pg. 193-205]

As noted ahove. Article I of the Constitution grants to the Congress the sole authority to make declarations of war. However, **the president has the power to command US military personnel based on the provisions of Article II**. Over the course of US history, **the commander-in-chief power has been interpreted to permit presidents to commit troops to areas of conflict even in the absence of a formal declaration of war**. Today, **formal declarations** of war **are the exception** rather than the rule; **separation of powers expert** Louis Fisher **notes that through 1991 only five wars had ever been declared** and that "in only one (the War of 1812) did members of Congress actually debate the merits of entering into hostilities'.'^ As Samuel Kemell and Gary Jacohson note: "[SJince 1989 U.S. armed forces have been almost continuously engaged somewhere in the world.''^

This was not always the case. Fisher points out that there is evidence of presidential restraint with regard to war-making by relating the story of President Grover Cleveland (1885-89; 1893-97), who refused to mobilise troops for a conflict with Cuba despite Congress' intention to declare war. In Fisher's account, Cleveland told the Congress: 'I will not mobilize the army ... I happen to know that we can buy the island of Cuba from Spain for $100,000,000, and a war will cost vastly more than that and will entail another long list of pensioners. It would be an outrage to declare war.''^ Yet, **in the modem history of presidential-congressional relations, it is much more frequently the president who has mobilised American troops without consultation with** the **Congress** and in the absence of a formal declaration of war. And it is clear that even when we consider Cleveland's actions, the president has been far more important to the conduct of American foreign policy than the Congress.

This circumstance led, in the aftermath of the war in Vietnam, to congressional passage of the War Powers Resolution in 1973. The War Powers Resolution (WPR) was an attempt to constrain presidential discretion with regard to committing troops oversees. Section 3 of the WPR requires that 'The president in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances".' Section 4 of the WPR gives the president 48 hours to provide a report to both Chambers of the Congress detailing the reason for committing troops, the authority under which he committed them and his prediction conceming the duration of the troops' engagement abroad.'^ Once the president has informed the Congress of the commitment of troops, and in the event that the Congress does not declare war, the WPR requires the president to end the engagement within 60 days, with the possibility of an additional 30 days' commitment in the event that the president certifies to the Congress that the additional time is necessary.^\*\* According to the Congressional Research Service (CRS), the research branch of the Library of Congress, since the War Powers Resolution was enacted over President Richard M. Nixon's 1973 veto, it has been invoked on 107 occasions (to 23 July 2003).^' Figure 2 illustrates both the absolute number of times as well as the rate of each president's exercise of war powers. As Figure 2 demonstrates, the rate of War Powers Resolution uses has continually increased since it took effect in 1974.

A reading of the WPR would seem to clarify the relationship between Congress and the president with regard to the exercise of national war powers. A close reading would also suggest that the president and Congress share war-making power. Yet **no president has ever recognised the WPR as a constraint on his ability to move American armed forces around the globe or keep them in place as long as necessary**. Moreover, **presidents rarely abide by the provisions** of the Resolution **that require their consultation with the Congress**. As CRS researcher Richard F. Grimmett notes, **'there has been very little consultation with Congress** under the Resolution **when consultation is defined to mean seeking advice prior to a decision to introduce troops'**.^" **And while the Congress has, from time to time, expressed its sense that troops should be withdrawn from conflicts or engagements abroad, in truth the Congress has relatively few options for dealing with a president** that violates the WPR. Indeed, as **the late presidency scholar** Aaron Wildavsky **notes, the Congress is much less likely to challenge presidents" foreign policy actions than it is willing to challenge presidents" domestic policy actions**.'^'**^ This is because presidents oversee an enormous national security apparatus and because the constituents represented by members of Congress rarely hold strong opinions on matters of foreign policy**. **As a result, congressional challenges to violations** of the WPR **consist mostly of holding oversight hearings and passing symbolic resolutions**.''\* Moreover, **once troops are committed abroad. Congress** almost **always falls in line with the president’s vision of the scope of the conflict and the need for a military presence**. **The members of Congress become reluctant to challenge a president who has troops on the ground and** typically **acquiesce to the president’s wishes when it comes to provisions for support. In this way, the president is able to exercise some leadership over the Congress, whose members** generally **find it politically expedient to follow the president on matters pertaining to the military** or the conduct of America's relations with other countries. Pg. 200-202

Congress will backlash. It will functionally bar the Court from exercising its authority

**Vladeck 11**—Professor of Law and Associate Dean for Scholarship @ American University [Stephen I. Vladeck, “Why Klein (Still) Matters: Congressional Deception and the War on Terrorism,” Journal of National Security Law, Volume 5, 6/16/2011, 9:38 AM

Six weeks later, Congress enacted the USA PATRIOT Act, which included a series of controversial revisions to immigration, surveillance, and other law enforcement authorities.34 But it would be over four years before Congress would again pass a key counterterrorism initiative, enacting the Detainee Treatment Act of 2005 (DTA)35 after—and largely in response to—the Supreme Court’s grant of certiorari in Hamdan v. Rumsfeld.36 In the five years since, Congress had enacted a handful of additional antiterrorism measures, including the Military Commissions Act (MCA) of 2006,37 as amended in 2009,38 the Protect America Act of 2007,39 and the 2008 amendments40 to the Foreign Intelligence Surveillance Act of 1978, known in shorthand as the FAA.41 And yet, although Congress has spoken in these statutes both to the substantive authority for military commissions and to the scope of the government’s wiretapping and other surveillance powers, it has otherwise left some of the central debates in the war on terrorism completely unaddressed.42 Thus, **Congress has not revisited the scope of the AUMF** since September 18, 2001, **even as substantial questions have been raised about whether the conflict has extended beyond that which Congress** could reasonably be said to have **authorized** a decade ago.43 **Nor has Congress intervened,** despite repeated requests that it do so, **to provide substantive, procedural, or evidentiary rules in the habeas litigation** arising out of the military detention of noncitizen terrorism suspects at Guantánamo.44

As significantly, **at the same time as** **Congress has** **left** some of **these** **key questions unanswered, it has** also **attempted to keep courts from answering them**. Thus, **the DTA and the MCA purported to divest the federal courts of jurisdiction** over habeas petitions brought by individuals detained at Guantánamo and elsewhere.45 Moreover, **the** 2006 **MCA precluded any lawsuit seeking** collaterally **to attack** the proceedings of **military commissions**,46 along with “any other action against the United States or its agents relating to any aspect of the detention, transfer, treatment, trial, or conditions of confinement of an alien who is or was detained by the United States and has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.”47 **And although the** Supreme **Court** in Boumediene i**nvalidated** the **habeas-stripping** provision as applied to the Guantánamo detainees,48 **the same language has been upheld as applied elsewhere**,49 **and the more general non-habeas jurisdiction-stripping section has been repeatedly enforced by the federal courts in other cases**.50

**Such legislative efforts to forestall judicial resolution** of the merits **can also be found in** the telecom immunity provisions of **the FAA**,51 which provided that telecom companies could not be held liable for violations of the Telecommunications Act committed in conjunction with certain governmental surveillance programs.52 Thus, in addition to changing the underlying substantive law going forward, the FAA pretermitted a series of then-pending lawsuits against the telecom companies.53

Analogously, **Congress has attempted to assert itself in the debate** over civilian trials versus military commissions **by barring the use of appropriated funds to try individuals held at Guantánamo** in civilian courts,54 **and by** also **barring the President from using** such **funds to transfer detainees into the U**nited **S**tates for continuing detention or to other countries, as well.55 Rather than enact specific policies governing criteria for detention, treatment, and trial, **Congress’s modus operandi** throughout the past decade **has been to effectuate policy** indirectly **by barring** (or attempting to bar) **other governmental actors from exercising their core authority, be it judicial review or executive discretion**.

Wasserman views these developments as a period of what Professor Blasi described as “constitutional pathology,” typified by “an unusually serious challenge to one or more of the central norms of the constitutional regime.” Nevertheless, part of how Wasserman defends the “Klein vulnerable” provisions of the MCA and FAA is by concluding that the specific substantive results they effectuate can be achieved by Congress, and so Klein does not stand in the way. But if Redish and Pudelski’s reading of Klein is correct, then the fact that Congress could reach the same substantive results through other means is not dispositive of the validity of these measures. To the contrary, the question is whether any of these initiatives were impermissibly “deceptive,” such that **Congress sought** **to** “vest the federal courts with jurisdiction to adjudicate but simultaneously **restrict the power of those courts to perform the adjudicatory function in the manner they deem appropriate**.”56 pg. 257-259

#### Wartime will force Obama to resist. The intractable battle creates a national diversion and impairs military wartime decisions

Lobel 8—Professor of Law @ University of Pittsburgh [Jules Lobel, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War,” Ohio State Law Journal, Vol. 69, 2008, pg. 391]

The critical difficulty with a contextual approach is its inherent ambiguity and lack of clarity, which tends to sharply shift the balance of power in favor of a strong President acting in disregard of congressional will. For example, the application of the Feldman and Issacharoff test asking whether the congressional restriction makes realistic sense in the modern world would yield no coherent separation of powers answer if applied to the current Administration’s confrontation with Congress. It would undoubtedly embolden the President to ignore Congress’s strictures. The President’s advisors would argue that the McCain Amendment’s ban on cruel and inhumane treatment, or FISA’s requirement of a warrant, does not make realistic sense in the context of the contemporary realities of the war on terror in which we face a shadowy, ruthless nonstate enemy that has no respect for laws or civilized conduct, a conclusion hotly disputed by those opposed to the President’s policies. Focusing the debate over whether Congress has the power to control the treatment of detainees on the President’s claim that the modern realities of warfare require a particular approach will merge the separation of powers inquiry of who has the power with the political determination of what the policy ought to be. Such an approach is likely to encourage the President to ignore and violate legislative wartime enactments whenever he or she believes that a statute does not make realistic sense—that is, when it conflicts with a policy the President embraces. 53

The contextual approach has a “zone of twilight” quality that Justice Jackson suggested in Youngstown. 54 Often constitutional norms matter less than political realities—wartime reality often favors a strong President who will overwhelm both Congress and the courts. While it is certainly correct— as Jackson noted—that neither the Court nor the Constitution will preserve separation of powers where Congress is too politically weak to assert its authority, a fluid contextual approach is an invitation to Presidents to push beyond the constitutional boundaries of their powers and ignore legislative enactments that seek to restrict their wartime authority.

Moreover, another substantial problem with a contextual approach in the war powers context is that the judiciary is unlikely to resolve the dispute. 55 The persistent refusal of the judiciary to adjudicate the constitutionality of the War Powers Resolution strongly suggests that courts will often refuse to intervene to resolve disputes between the President and Congress over the constitutionality of a statute that a President claims impermissibly interferes with her conduct of an ongoing war. 56 This result leaves the political branches to engage in an intractable dispute over the statute’s constitutionality that saps the nation’s energy, diverts focus from the political issues in dispute, and endangers the rule of law.

Additionally, in wartime it is often important for issues relating to the exercise of war powers to be resolved quickly. Prompt action is not usually the forte of the judiciary.

If, however, a constitutional consensus exists or could be consolidated that Congress has the authority to check the President’s conduct of warfare, that consensus might help embolden future Congresses to assert their power. Such a consensus might also help prevent the crisis, chaos, and stalemate that may result when the two branches assert competing constitutional positions and, as a practical matter, judicial review is unavailable to resolve the dispute.

Moreover, the adoption of a contextual, realist approach will undermine rather than aid the cooperation and compromise between the political branches that is so essential to success in wartime. In theory, an unclear, ambiguous division of power between the branches that leaves each branch uncertain of its legal authority could further compromise and cooperation. However, modern social science research suggests that the opposite occurs. 57 Each side in the dispute is likely to grasp onto aspects or factors within the ambiguous or complex reality to support its own self-serving position. This self-serving bias hardens each side’s position and allows the dispute to drag on, as has happened with the ongoing, unresolved dispute over the constitutionality of the War Powers Resolution. Pg. 407-409

#### Stalemate creates an antiwar congressional coalition that guts our commitment to Afghanistan

Lieberman 10—Independent Democratic senator from Connecticut [Joseph I. Leiberman, “Back to a Bipartisan Foreign Policy,” Wall Street Journal, November 16, 2010, pg. http://tinyurl.com/m5z623w]

This year's midterm elections marked the first time since 9/11 that national security was not a major consideration for American voters. But it is precisely in the realm of foreign policy and national security that we may have the greatest opportunities for bipartisan cooperation between President Obama and resurgent Republicans in Congress.

Seizing these opportunities will require both parties to break out of a destructive cycle that has entrapped them since the end of the Cold War and caused them to depart from the principled internationalist tradition that linked Democratic presidents like Truman and Kennedy with Republican presidents like Nixon and Reagan.

During the 1990s, too many Republicans in Congress reflexively opposed President Clinton's policies in the Balkans and elsewhere. Likewise, during the first decade of the 21st century, too many Democrats came to view the post-9/11 exercise of American power under President Bush as a more pressing danger than the genuine enemies we faced in the world.

The larger truth was that the foreign policy practices and ideals of both President Clinton and Bush were within the mainstream of American history and values. And if one can see through the fog of partisanship that has continued to choke Washington since President Obama was elected in 2008, the same is true of the new administration as well.

President Obama has moved to the internationalist center on several key issues of national security. Although both parties are hesitant to acknowledge it, the story of the Obama administration's foreign policy is as much continuity as change from the second term of the Bush administration—from the surge in Afghanistan to the reauthorization of the Patriot Act, and from drone strikes against al Qaeda to a long-term commitment to Iraq.

Republicans have also stayed loyal to the internationalist policies they supported under President Bush. When they have criticized the Obama administration, it has reflected this worldview—arguing that the White House has not been committed enough in its prosecution of the war in Afghanistan or done enough to defend human rights and democracy in places like Iran and China.

The critical question now, as we look forward to the next two years, is whether this convergence of the two parties towards the internationalist center can be sustained and strengthened. There are three national security priorities where such a consensus is urgently needed.

The first is the war in Afghanistan. To his credit, President Obama last December committed more than 30,000 additional troops to Afghanistan as part of a comprehensive counterinsurgency campaign, despite opposition within the Democratic Party.

Having just returned from Afghanistan, I am increasingly confident that the tide there is turning in our favor, with growing signs of military progress. But as Gen. David Petraeus, the top U.S. commander in Afghanistan, has warned, success will come neither quickly nor easily, and there is still much tough fighting ahead. It is all but certain that no more than a small number of U.S. forces will be able to withdraw responsibly in July 2011, and that success in Afghanistan is going to require a long-term commitment by the U.S. beyond this date.

Sustaining political support for the war in Afghanistan therefore will increasingly require President Obama and Republicans in Congress to stand together. Failure to sustain this bipartisan alliance runs the risk that an alternative coalition will form in Congress, between antiwar Democrats and isolationist Republicans. That would be the single greatest political threat to the success of the war effort in Afghanistan, which remains critical to our security at home.

**TK not solve**

Special court will rubberstamp the executive

**Chong 12** – JD from Yale Law (2014) [Jane Y. Chong, “Targeting the Twenty-First-Century Outlaw,” The Yale Law Journal, Vol. 122, No. 3, 122 Yale L.J. 724, December 2012

In 2008, former federal judge and then-Attorney General Michael Mukasey summed up further problems with leaving difficult national security decisions to the judiciary: "Judges decide particular cases, and they are limited to the evidence and the legal arguments presented in those cases. They have no independent way, or indeed authority, to find facts on their own, and they are generally limited by the parties' presentations of background information and expert testimony." [n67](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1368703880748&returnToKey=20_T17410326049&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.661929.2503997523#n67) These limitations would be a special curse in ex parte killing-court proceedings. The judiciary would be left without a meaningful avenue for questioning the reliability or accuracy of the government's evidence. Indeed, such questioning is already difficult in detainment cases where the terror suspect is present and equipped with a defense team. [n68](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1368703880748&returnToKey=20_T17410326049&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.661929.2503997523#n68) Even if counsel were appointed to represent the absent defendant, [n69](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1368703880748&returnToKey=20_T17410326049&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.661929.2503997523#n69) as in a public trial in absentia, it is unclear what value this would add in the way of challenging the government's narrative. The court's role would necessarily be limited to analyzing whether, given the Executive's presentation of its case, the prospective target poses enough of a national security threat to warrant execution.

Secrecy makes judicial review worthless

**Chong 12** – JD from Yale Law (2014) [Jane Y. Chong, “Targeting the Twenty-First-Century Outlaw,” The Yale Law Journal, Vol. 122, No. 3, 122 Yale L.J. 724, December 2012

In theory, establishing a special court to review targeting determinations is a logical compromise between no trial and full trial. By giving the judiciary the power to substantively assess whether lethal force against a particular citizen is well founded, the court would offer prospective targets the benefits of ex ante, case-by-case review and ostensibly serve as a major check on the Executive's use of lethal force. But a closer examination reveals that a secret killing court is the worst of both worlds: it affords the prospective target insufficient protections while limiting the judiciary to discharging a responsibility that falls outside of its purview.

On the first point, a secret killing court would be subject to all of the criticisms levied at the FISA court, whose closed doors and sealed records make for an inscrutable process by which government requests for surveillance warrants are granted seemingly as a matter of course. [n62](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1368703880748&returnToKey=20_T17410326049&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.661929.2503997523#n62) In the targeting realm, however, this opacity would translate into due process denial: ex parte court proceedings shrouded in secrecy would preclude an accused terrorist from laying claim to the opportunity to contribute to the decision that may lead to his killing. [n63](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1368703880748&returnToKey=20_T17410326049&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.661929.2503997523#n63)

For example, the Obama Administration refused to concede Awlaki was a target even when moving to dismiss the lawsuit filed by Awlaki's father. This secrecy rendered impracticable the two avenues of redress that Judge Bates suggested were available to a target willing to challenge his placement on the government's kill list: peacefully surrendering to an embassy, in which case the government would be barred from killing him as a matter of domestic and international law, [n64](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1368703880748&returnToKey=20_T17410326049&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.661929.2503997523#n64) or challenging his placement on the target list using videoconferencing technology. [n65](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1368703880748&returnToKey=20_T17410326049&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.661929.2503997523#n65) Both "solutions" to the standing problem are illusory for targets as a general matter because they require the target to be aware of his target status. [n66](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1368703880748&returnToKey=20_T17410326049&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.661929.2503997523#n66) Although that information was leaked in the high-  [\*741]  profile case of this particular radical cleric, neither option is clearly available to future citizen-targets so long as the Executive is permitted to formally keep its kill list a secret, and in the secret court context, submit its evidence for review strictly in camera.

**pakistan**

**A2 Drones solve terror**

1. quantitative ev shows drones strikes don’t diminish al Qaeda’s ability to carry out sophisticated operations

**Walsh and Smith 13**—\*James Igoe Walsh is a professor of political science at the University of North Carolina at Charlotte. \*\*Megan Smith is a graduate of the University of North Carolina at Charlotte [“Do Drone Strikes Degrade Al Qaeda? Evidence From Propaganda Output,” *Terrorism and Political Violence*, Volume 25, Issue 2, 2013, Taylor & Francis, Accessed through Emory Libraries]

Do drone strikes hinder Al Qaeda's ability to engage in sophisticated political and military operations? We address this question by investigating the relationships between drone strikes and Al Qaeda propaganda output. Propaganda output is an important measure of organizational resilience and activity. Creating sophisticated propaganda requires a cadre of experienced producers, media workers, and “stars” who are all vulnerable to drone strikes. Thus if drone strikes hinder Al Qaeda's ability to operate effectively, this should be reflected in changes in the organization's propaganda.

We find **little evidence that this is the case**. Plots of the time series for drone strikes and Al Qaeda media output show **no clear relationships**. Regression analysis finds that drone strikes may be associated with **more**, not less, **propaganda output**. The relationship is not sufficiently clear-cut that we are willing to conclude that there has been a positive relationship between drone strikes and propaganda. However, in none of the regression models was the relationship clearly or strongly negative. This suggests that, at best, drone strikes have little or no effect on Al Qaeda's ability to create and issue propaganda. Al Qaeda's propaganda output appears to be quite resilient in the face of drone strikes.

In closing, we note that there are at least four limitations to the analysis. First, it is possible that we have failed to include important independent variables, or that the variables we do include suffer from measurement error. Obtaining accurate data on ongoing conflicts is often very difficult. Second, recall that we analyzed the effects of up to thirty-one weeks of drone strikes on propaganda output. It is possible that drone strikes reduce output but with a longer lag. It is also possible that the effects of drone strikes are cumulative over a longer period of time, and would eventually result in a sudden drop in propaganda output. We note, though, that this study includes longer lags than do others who analyze the effects of targeted killings on terrorist or insurgent groups, and that American policymakers claim that drone strikes are already degrading Al Qaeda's capacity to engage in political action. Third, propaganda output is only one of many “goods” that terrorist organizations such as Al Qaeda produce. Al Qaeda is also responsible for acts of violence, of course, as well as fundraising, recruiting, training, and so on. It is possible that drone strikes have a small or a positive effect on propaganda output, but have a negative influence on these other activities. This may be the case, but it is of course difficult for researchers to obtain accurate and reliable data about these activities. Propaganda output has the advantage of being clearly observable and measurable. Fourth, we have focused on the quantity of propaganda produced by Al Qaeda, but have little to say about the content of this propaganda. Analyzing how Al Qaeda's messages and themes have changed in response to the onset of drone strikes is an important challenge for future work.

The results suggest that drone strikes appear to have little effect on Al Qaeda's ability to generate and disseminate propaganda. This could mean that while drone strikes have killed many militants associated with the group, they have not been very effective in undermining its ability to plan and undertake complex actions. As noted above, drone strikes also involve some costs for the United States. Perhaps the most important cost is political. Foes of the United States decry the fact that some drone strikes kill or injure non-combatants. This could reduce political support for the United States’ entire range of counterterrorist operations in Pakistan in particular. The findings suggest that the gains of drone strikes in terms of undermining Al Qaeda may be smaller that many believe.

2. Empirical ev shows targeted killings are counterproductive counterterrorism policy

**Jordan 9**—Jenna Jordan is a PhD Candidate at the University of Chicago [“When Heads Roll: Assessing the Effectiveness of Leadership Decapitation,” *Security Studies*, Volume 18, Issue 4, 2009, pg. 719-755]

Despite a tremendous amount of optimism toward the success of decapitation, there is **very little evidence** on whether and when removing leaders will result in organizational collapse. Moreover, there are inconsistencies among current studies of decapitation. A core problem with the current literature and a primary reason for discrepancy over the effectiveness of decapitation is a **lack of solid empirical foundations**. 6 In order to develop an empirically grounded assessment of leadership targeting, this study examines variation in the success of leadership decapitation by developing a comprehensive dataset of 298 cases of leadership decapitation from 1945–2004. The overarching goal of this article is to explain whether decapitation is effective and to do this I will answer three questions: Under what conditions does leadership decapitation result in the dissolution of a terrorist organization? Does leadership decapitation increase the likelihood of organizational collapse beyond the baseline rate of collapse for groups over time? Finally, in cases where decapitation does not result in group collapse, to what extent does it result in organizational degradation and hinder a group's ability to carry about terrorist attacks?

Many academics and policy makers have argued in favor of targeting the leaders of terrorist organizations despite the variability of its success rate. Immediately following the killing of Abu Musab al-Zarqawi in June 2006, Eliot Cohen argued that while his death should weaken al Qaeda in Iraq, he acknowledged that it may not have as much difference as many had hoped. 7 In a study of targeted killings in Israel Stephen David, in spite of concern over potential backlash, argued that decapitation is effective and should be retained. 8 While many in the State Department have condemned Israel's targeted killings, the nsct demonstrates the high priority placed upon removing the leadership of terrorist organizations. While there are laws against assassination, the Executive Order banning assassination does not apply to the command and control centers of terrorist organizations. Irrespective of questions regarding the legality of leadership targeting and its ability to destroy an organization, the conventional wisdom is that removing key leaders can greatly weaken a terrorist organization, and leadership targeting continues to be heralded as an effective strategy.

Optimism toward the success of decapitation is based primarily on theories of charismatic leadership. The concept of charisma has been pivotal in developing decapitation as a dominant counterterrorism strategy. Organizations headed by charismatic leaders, whose skills are viewed as essential to the operational success of the group, are seen as more volatile than other types of organizations. Social network analysis, which is rooted in sociological studies of organizational dynamics, would predict more variability in the success of decapitation. According to social network analysis, social ties between actors are the primary means by which to understand the functioning of an organization. Actors with the most social ties are crucial to organizational planning, and their removal can weaken an organization. If organizations have networks that are susceptible to the removal of central actors, decapitation should be effective. These two theoretical perspectives have both been used to bolster claims regarding the effectiveness of decapitation.

This article explores the effectiveness of decapitation **as a counterterrorism policy**. First, I identified the conditions under which decapitation results in organizational decline. A group's age, size, and type are all important predictors of when decapitation is likely to be effective. The data indicate that as an organization becomes larger and older, decapitation is less likely to result in organizational collapse. Furthermore, **religious groups are highly resistant to attacks on their leadership**, while ideological organizations are much easier to destabilize through decapitation.

Second, the data also show that decapitation is **not an effective counterterrorism strategy**. Decapitation does not increase the likelihood of organizational collapse beyond to a baseline rate of collapse for groups over time. The marginal utility for decapitation is **actually negative**. Groups that have not had their leaders targeted have a higher rate of decline than groups whose leaders have been removed. Decapitation is actually **counterproductive**, particularly for larger, older, religious, or separatist organizations.

Finally, in order to determine whether decapitation hindered the ability of an organization to carry out terrorist attacks, I looked at three cases in which decapitation did not result in a group's collapse. The results were mixed over the extent to which decapitation has resulted in organizational degradation. While in some cases decapitation resulted in fewer attacks, in others the attacks became more lethal in the years immediately following incidents of decapitation. I argue that these results are largely driven by a group's size and age.

Ultimately, these findings indicate that **our current counterterrorism strategies need rethinking**. The data show that independent of other measures, going after the leaders of older, larger, and religious groups is not only **ineffective, it is counterproductive**. Moreover, the decentralized nature of many current terrorist organizations has proven to be highly resistant to decapitation and to other counterterrorism measures. The remainder of this article will proceed in five parts. First, I will look at existing explanations for leadership decapitation, focusing on theories of charismatic leadership and social network analysis. Second, I will outline the data and methodology used in this study. Third, I will identify the conditions under which decapitation is likely to result in organizational collapse. Fourth, I will evaluate the effectiveness of decapitation. Fifth, I will look at three cases to explore the extent to which decapitation can weaken an organization. I will conclude with a discussion of policy implications.

**Group think**

Obama avoids groupthink

**Kennedy 12** – JD from the University of Southern California Gould School of Law [Brandon Kennedy (MA in Regional Studies (Middle East) from Harvard Graduate School of Arts and Sciences), “NOTE: THE HIJACKING OF FOREIGN POLICY DECISION MAKING: GROUPTHINK AND PRESIDENTIAL POWER IN THE POST-9/11 WORLD,” Southern California Interdisciplinary Law Journal, 21 S. Cal. Interdis. L.J. 633, Spring 2012

A. Anti-Groupthink Decision-Making Practices
The Obama team adopted several decision-making practices that helped counter the groupthink that had plagued the Bush team. These practices produced a moderate level of cohesiveness, greatly limited structural organizational faults, and reduced threats that could give rise to a provocative situational context.

1. Building Moderate Cohesiveness
"Hillary and I were friends before this started ... . We had this very vituperative campaign, but, you know, she is smart and we ought to be able to do something with her." n225 After his election, Obama sought out people to fill the Cabinet and White House staff positions based on each member's experience and the different contributions they could bring to the table. While political ideology was one factor to consider, it was not elevated above other qualities. Above all, Obama seemed to want to succeed by considering all possible options, and the only way to do that was by including people who thought differently from him and who would challenge his thinking. n226

Obama thus set about to build a team that would work well together, but whose members would also engage in critical thinking and evaluate all possible options when making decisions. Obama sought to strike this balance by including both friends and political allies, such as David Axelrod and Rahm Emanuel, and also outsiders and even former rivals. n227 For example, in a somewhat controversial move, Obama chose to keep Bush's Secretary of Defense, Robert Gates, citing the importance of continuity and expertise. n228 Obama also wished to heal the wounds inflicted  [\*671]  during a bitter nomination campaign and appoint a strong Secretary of State, so he offered Hillary Clinton the post. n229 For the position of CIA Director, Obama chose Leon Panetta, who, as an outsider, would help improve the Agency's image, which had been severely tarnished due to controversial pre-Iraq War intelligence, interrogation techniques, and its domestic spying program. n230 Thus, the manner in which Obama built his decision-making group laid the foundation for avoiding groupthink.

**Pak**

**Military crackdowns control instability**

**Bandow 09** – Senior Fellow at the Cato Institute (Doug, “Recognizing the Limits of American Power in Afghanistan,” Huffington Post, 11/31/09, <http://www.cato.org/pub_display.php?pub_id=10924>, MMarcus)

From Pakistan's perspective, limiting the war on almost any terms would be better than prosecuting it for years, even to "victory," whatever that would mean. In fact, the least likely outcome is a takeover by widely unpopular Pakistani militants. The Pakistan military is the nation's strongest institution; while the army might not be able to rule alone, it can prevent any other force from ruling. Indeed, Bennett Ramberg made the important point: "Pakistan, Iran and the former Soviet republics to the north have demonstrated a brutal capacity to suppress political violence to ensure survival. This suggests that even were Afghanistan to become a terrorist haven, the neighborhood can adapt and resist." The results might not be pretty, but the region would not descend into chaos. In contrast, warned Bacevich: "To risk the stability of that nuclear-armed state in the vain hope of salvaging Afghanistan would be a terrible mistake."

**Won’t escalate -- Paki loose nukes aren’t a threat.**

**Innocent 10** - foreign policy analyst at the Cato Institute (Malou, “Away from McChrystal and Back to the Basics,” Huffington Post, 6/28/10, <http://www.cato.org/pub_display.php?pub_id=11934>, MMarcus)

Pakistan has an elaborate command and control system in place that complies with strict Western standards, and the country's warheads, detonators, and missiles are not stored fully-assembled, but are scattered and physically separated throughout the country. In short, **the danger of militants seizing Pakistan's nuclear weapons in some Rambo-like scenario remains highly unlikely.**

**Afghan / central asia**

**No central asian war – countries prefer cooperation**

**Maksutov 06** (Ruslan, Stockholm International Peace Research Institute, “The Shanghai Cooperation Organization: A Central Asian Perspective”, August, http://www.sipri.org/contents/worldsec/Ruslan.SCO.pdf/download)

As a starting point, it is fair to say that all Central Asian countries—as well as China and Russia—are interested in security cooperation within a multilateral framework, such as the SCO provides. For Central Asia this issue ranks in importance with that of economic development, given the explosive environment created locally by a mixture of external and internal threats. Central Asia is encircled by four of the world’s eight known nuclear weapon states (China, India, Russia and Pakistan), of which Pakistan has a poor nuclear non-proliferation profile and Afghanistan is a haven for terrorism and extremism. Socio-economic degradation in Central Asian states adds to the reasons for concern and makes obvious the interdependence between progress in security and in development. Some scholars argue that currently concealed tendencies evolving in various states of Central Asia—such as the wide-ranging social discontent with oppressive regimes in the region, and the growing risks of state collapse and economic decline—all conducive to the quick growth of radical religious movements, could have far-reaching implications for regional stability once they come more into the light.41 At first sight, the instruments established by the SCO to fulfill its declared security building objectives seem to match the needs that Central Asian states have defined against this background. While **the existence of the SCO further reduces the already remote threat of conventional interstate war in the region,**42 it allows for a major and direct focus on the non-state, non-traditional and transnational threats that now loom so large by comparison.

**Nuke terror**

**Zero risk of nuclear terrorism**

**Chapman 12** 5/22, \*Stephen Chapman is a columnist and editorial writer for the Chicago Tribune, “CHAPMAN: Nuclear terrorism unlikely,” http://www.oaoa.com/articles/chapman-87719-nuclear-terrorism.html, AJ

Ever since Sept. 11, 2001, Americans have had to live with the knowledge that the next time the terrorists strike, it could be not with airplanes capable of killing thousands but atomic bombs capable of killing hundreds of thousands. The prospect has created a sense of profound vulnerability. It has shaped our view of government policies aimed at combating terrorism (filtered through Jack Bauer). It helped mobilize support for the Iraq war. Why are we worried? Bomb designs can be found on the Internet. Fissile material may be smuggled out of Russia. Iran, a longtime sponsor of terrorist groups, is trying to acquire nuclear weapons. A layperson may figure it’s only a matter of time before the unimaginable comes to pass. Harvard’s Graham Allison, in his book “Nuclear Terrorism,” concludes, “On the current course, nuclear terrorism is inevitable.” But remember: After Sept. 11, 2001, we all thought more attacks were a certainty. Yet al-Qaida and its ideological kin have proved unable to mount a second strike. Given their inability to do something simple — say, shoot up a shopping mall or set off a truck bomb — it’s reasonable to ask whether they have a chance at something much more ambitious. Far from being plausible, argued Ohio State University professor John Mueller in a presentation at the University of Chicago, “the likelihood that a terrorist group will come up with an atomic bomb seems to be **vanishingly small**.” The events required to make that happen comprise a multitude of Herculean tasks. First, a terrorist group has to get a bomb or fissile material, perhaps from Russia’s inventory of decommissioned warheads. If that were easy, one would have already gone missing. Besides, those devices are probably no longer a danger, since weapons that are not maintained quickly become what one expert calls “radioactive scrap metal.” If terrorists were able to steal a Pakistani bomb, they would still have to defeat the arming codes and other safeguards designed to prevent unauthorized use. As for Iran, no nuclear state has ever given a bomb to an ally — for reasons even the Iranians can grasp. Stealing some 100 pounds of bomb fuel would require help from rogue individuals inside some government who are prepared to jeopardize their own lives. Then comes the task of building a bomb. It’s not something you can gin up with spare parts and power tools in your garage. It requires millions of dollars, a safe haven and advanced equipment — plus people with specialized skills, lots of time and a willingness to die for the cause. Assuming the jihadists vault over those Himalayas, they would have to deliver the weapon onto American soil. Sure, drug smugglers bring in contraband all the time — but seeking their help would confront the plotters with possible exposure or extortion. This, like every other step in the entire process, means expanding the circle of people who know what’s going on, multiplying the chance someone will blab, back out or screw up. That has heartening implications. If al-Qaida embarks on the project, it has only a minuscule chance of seeing it bear fruit. Given the formidable odds, it probably won’t bother. None of this means we should stop trying to minimize the risk by securing nuclear stockpiles, monitoring terrorist communications and improving port screening. But it offers good reason to think that in this war, it appears, the worst eventuality is **one that will never happen**.

**Drone prolif**

**Impact**

**No impact --- drones are ineffective and there’s no incentive for them be used on a wide-scale --- they’ll be easily countered even if they are with limited escalation**

**Lewis 11** (Michael W. Lewis, professor of international law and the law of war at Ohio Northern University School of Law, former Navy fighter pilot, and coauthor of ‘The War on Terror and the Laws of War: A Military Perspective,’ “Unfounded Drone Fears,” Los Angeles Times, October 17, 2011, http://articles.latimes.com/2011/oct/17/opinion/la-oe--lewis-drones-20111017)

Almost since the United States began using the unmanned aerial vehicles known as drones, their use has drawn criticism. The latest criticism, which has received considerable attention in the wake of the drone strike on Anwar Awlaki, is that America's use of drones has sparked a new international arms race.

While it is true that some other nations have begun developing their own unmanned aerial vehicles, the extent of the alarm is unjustified. Much of it rests on myths that are easily dispelled.

Myth 1: Drones will be a threat to the United States in the hands of other nations. Drones are surveillance and counter-terrorism tools; they are **not effective weapons** of conventional warfare. The unmanned aerial vehicles are slow and **extremely vulnerable** to even basic air defense systems, illustrated by the fact that a U.S. surveillance drone was shot down by a 1970s-era MIG-25 Soviet fighter over Iraq in 2002. Moreover, drones are dependent on constant telemetry signals from their ground controllers to remain in flight. Such signals can be easily jammed or disrupted, causing the drone to fall from the sky. It's even possible that a party sending stronger signals could take control of the drone. The drones, therefore, have limited usefulness. And certainly any drone flying over the U.S. while being controlled by a foreign nation could be easily detected and either destroyed or captured.

Myth 2: Terrorists could effectively use drones to strike targets that are otherwise safe. Though it would be preferable if terrorist groups did not acquire drones, the technology required to support them is not particularly advanced. If organizations such as Al Qaeda were intent on acquiring the technology, they probably could. One of the reasons Al Qaeda may not have spent the time and resources necessary to do so is that drones would be of limited value. In addition to being very vulnerable to even basic air defense systems, drones require a great deal of logistical support. They have to be launched, recovered and controlled from a reasonably large and secure permanent facility. Wherever Al Qaeda's drones landed would immediately become a target.

It is true that a small, hand-launched drone capable of delivering a small warhead over a reasonably short distance could be, like radio-controlled model airplanes, launched in a public park or other open area and flown to a target several miles away. However, the amount of explosives that such a drone can carry is very limited (at most a few pounds) and pales in comparison to the amount of explosives that can be delivered by a vehicle or even a suicide bomber. It seems likely that terrorist groups will continue to deliver their explosives by vehicle or suicide bomber.

Myth 3: The U.S. use of drones in cases such as the Awlaki killing in Yemen serves to legitimize their use by China or Russia. International law places the same restrictions on the use of drones that it places on any other use of military force. The U.S. used a drone on Yemeni territory to kill Awlaki because it was given permission to do so by the Yemeni government, and because Awlaki was an active member of an Al Qaeda affiliate who had repeatedly been involved in operations designed to kill Americans at home and abroad. With such permission, the U.S. could instead have employed special forces or a conventional airstrike.

Numerous commentators have suggested that U.S. drone use legitimizes Russian drone use in Chechnya or Chinese drone use against the Uighurs. If China or Russia were facing genuine threats from Chechen or Uighur separatists, they might be allowed under international law to use drones in neighboring states if those states gave them permission to do so. However, given the fact that Chechen separatists declared an end to armed resistance in 2009, and that the greatest concern Russians currently have with Chechnya is with the lavish subsidies that Russia is currently providing it, the likelihood of armed Russian drones over Chechnya seems **remote at best.**

Likewise, there is no Uighur separatist organization that even remotely resembles Al Qaeda. Uighur unrest has taken the form of uprisings in Urumqi and other areas, similar to the Tibetan unrest of a few years ago. The Chinese eliminated such unrest with widespread arrests and disappearances, which raised serious human rights concerns. But there has been no time in which Uighur opposition has met the threshold established by international law that would allow for the use of armed drones in response to Uighur actions.

It is important to recognize drones for what they are: slow, relatively low-tech anti-terrorism tools that would be of limited use on most modern battlefields and are particularly unsuited to use by terrorist organizations.

**No reverse casual modeling internal link --- we can’t reverse the precedent that has already been set**

**Boot 11** (Max Boot, Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations in New York, leading military historian and foreign-policy analyst, “We Cannot Afford to Stop Drone Strikes,” Commentary Magazine, October 9, 2011, http://www.commentarymagazine.com/2011/10/09/drone-arms-race/)

The New York Times engages in some scare-mongering today about a drone arms race. Scott Shane notes correctly other nations such as China are building their own drones and in the future U.S. forces could be attacked by them–our forces will not have a monopoly on their use forever. Fair enough, but he goes further, suggesting our current use of drones to target terrorists will backfire:

If China, for instance, sends killer drones into Kazakhstan to hunt minority Uighur Muslims it accuses of plotting terrorism, what will the United States say? What if India uses remotely controlled craft to hit terrorism suspects in Kashmir, or Russia sends drones after militants in the Caucasus? American officials who protest will likely find their own example thrown back at them.

“The problem is that we’re creating an international norm” — asserting the right to strike preemptively against those we suspect of planning attacks, argues Dennis M. Gormley, a senior research fellow at the University of Pittsburgh and author of Missile Contagion, who has called for tougher export controls on American drone technology. “The copycatting is what I worry about most.”

This is a familiar trope of liberal critics who are always claiming we should forego “X” weapons system or capability, otherwise our enemies will adopt it too. We have heard this with regard to ballistic missile defense, ballistic missiles, nuclear weapons, chemical and biological weapons, land mines, exploding bullets, and other fearsome weapons. Some have even suggested the U.S. should abjure the first use of nuclear weapons–and cut down our own arsenal–to encourage similar restraint from Iran.

**The argument falls apart rather quickly because it is founded on a false premise: that other nations will follow our example.** In point of fact, Iran is hell-bent on getting nuclear weapons no matter what we do; China is hell-bent on getting drones; and so forth. Whether and under what circumstances they will use those weapons remains an open question–but there is little reason to think self-restraint on our part will be matched by equal self-restraint on theirs. Is Pakistan avoiding nuking India because we haven’t used nuclear weapons since 1945? Hardly. The reason is that India has a powerful nuclear deterrent to use against Pakistan. If there is one lesson of history it is a strong deterrent is a better upholder of peace than is unilateral disarmament–which is what the New York Times implicitly suggests.

Imagine if we did refrain from drone strikes against al-Qaeda–what would be the consequence? If we were to stop the strikes, would China really decide to take a softer line on Uighurs or Russia on Chechen separatists? That seems unlikely given the viciousness those states already employ in their battles against ethnic separatists–which at least in Russia’s case already includes the suspected assassination of Chechen leaders abroad. What’s the difference between sending a hit team and sending a drone?

While a decision on our part to stop drone strikes would be unlikely to alter Russian or Chinese thinking, it would have one immediate consequence: al-Qaeda would be strengthened and could regenerate the ability to attack our homeland. Drone strikes are the only effective weapon we have to combat terrorist groups in places like Pakistan or Yemen where we don’t have a lot of boots on the ground or a lot of cooperation from local authorities. We cannot afford to give them up in the vain hope it will encourage disarmament on the part of dictatorial states.

**Not key to the global economy**

**Davis 4** [Joseph, Analyst @ Vanguard China's slowing economy, September, https://institutional5.vanguard.com/iip/pdf/chinaslowdown.pdf]

Overall, our simulations indicate that a Chinese hard landing would have a minimal impact on the U.S. economy. There would be the usual temporary effects of dramatic economic news-a few days or weeks of market swings, together with much dire prophesizing in the media. But, as stated above, the true result of a sharp drop in China's GDP should be much like that of past emerging-market hard landings, which have not significantly detracted from U.S.-and hence, global-economic growth. Despite the initial drop-off in local demand, global deflationary pressures would quickly act to stimulate demand worldwide. Indeed, the VAR model demonstrates that the second-round feedback effects of lower commodity and import prices would reduce input costs world-wide sufficiently to create a bounce-back effect: The lower costs eventually would counteract the first-round fall-off in Chinese demand. Conclusion. While recent Chinese policy responses suggest that a soft landing is the most likely outcome for the nation's economy, the risks to this assessment lie overwhelmingly on the downside. Regardless of the path that China's economy takes over the next year, our analysis shows that the potential ramifications for long-term investors are more modest and short-lived than commonly feared. Using quantitative techniques, we find that the implications of a soft landing in China are relatively benign for the global economy. A potential hard landing would have more harmful effects on the Asian economy and emerging markets generally, but relatively minor impact on the U.S. economy.

**Drone prolif is good --- plan’s modeling restricts Russian strikes on Eastern European energy terrorism**

**Roberts 13** (Kristin Roberts, News Editor for National Journal, M.A. in security studies from Georgetown University, “When the Whole World Has Drones,” The National Journal, March 22, 2013, http://www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321)

Hyperbole? Consider this: Iran, with the approval of Damascus, carries out a lethal strike on anti-Syrian forces inside Syria; Russia picks off militants tampering with oil and gas lines in Ukraine or Georgia; Turkey arms a U.S.-provided Predator to kill Kurdish militants in northern Iraq who it believes are planning attacks along the border. Label the targets as terrorists, and in each case, Tehran, Moscow, and Ankara may point toward Washington and say, **we learned it by watching you.** In Pakistan, Yemen, and Afghanistan.

This is the unintended consequence of American drone warfare. For all of the attention paid to the drone program in recent weeks—about Americans on the target list (there are none at this writing) and the executive branch’s legal authority to kill by drone outside war zones (thin, by officials’ own private admission)—what goes undiscussed is Washington’s deliberate failure to establish clear and demonstrable rules for itself that would at minimum create a globally relevant standard for delineating between legitimate and rogue uses of one of the most awesome military robotics capabilities of this generation.

**The impact is Russian political and economic security --- energy terrorism disrupts the entire network**

**Ratliff 03** (William E. Ratliff, research fellow at Stanford University’s Hoover Institution, lecturer at Stanford University, “Russia’s Oil in America’s Future: Policy, Pipelines, and Prospects,” Hoover Press, January 1, 2003, pgs. 4-8)

Finally, U.S. leaders believe that helping Russia update and develop this critical natural resource and industry will **contribute to** the **stability** of the country during a **difﬁcult transition period** and that this, in turn, will provide the foundation for its active and productive participation in the global economy, though at present to a very large extent this depends on a continuation of the high levels of oil prices. It is reasoned that economic stability and Russia’s forthcoming membership in the World Trade Organization will increase the chances that Russia will develop along democratic and market-oriented paths. Washington’s oil initiative with Moscow has involved both government agencies and private industry. The role of the latter, a central and innovative element in the bilateral relationship, was emphasized at the October 2002 U.S.- Russia Commercial Energy Summit in Houston, which in turn set up the Commercial Energy Working Group, which met again in mid-September 2003 in St. Petersburg. Though in 2002 U.S. economic ties with Russia were roughly comparable to ties with Costa Rica, Americans could soon play a critical role in funding development of the Russian oil industry, as well as providing technology and expertise. There is considerable U.S. government and business interest in doing so, and already there is some movement in that direction.

Oil and the Russian Economy

Russian oil exploration began in the 1840s near Baku on the Caspian Sea. Oil production did not take off under communism until after World War II when it became increasingly productive and efﬁcient. During the late Soviet period Russia was the world’s top exporter of oil, a distinction it may have recovered in the past year.8 At its peak in the 1980s, Soviet production was about 10 million barrels per day, of which about half was used domestically. The production and use of energy declined after the fall of communism even as the economy also suffered from the virtual collapse of the second leg of the Soviet economic system, the defense industry. Restructuring of the state-controlled Russian oil sector began in the early 1990s, building on changes that had occurred under Mikhail Gorbachev, and surged in and after the mid1990s when major portions of the state industry were sold to private buyers in auctions. Today the private companies (including Yukos, Tyumen Oil [TNK]) are more efﬁciently run than state companies, and this is one of the reasons the government reportedly intends to divest itself of its remaining minority holdings in oil companies by 2006.9 This will, of course, further decrease central control over the vital industry.

After the 1998 ﬁnancial crisis, and particularly since the beginning of Putin’s presidency, energy has become the engine of Russian growth, for resources, mostly oil and natural gas, constitute more than 40 percent of Russia’s exports and almost 15 percent of its GDP. During the ﬁrst seven months of 2003, oil output averaged 8.26 million barrels per day, and in August it rose to 8.6 million barrels per day,10 of which about two-thirds is exported, in part because domestic prices for oil are very low. The recent increase in production is not due mainly to tapping new ﬁelds, though new reserves have been found, but to reviving and streamlining the Soviet period production, in large part through privatization, and exporting a higher percentage of the product. Still, major new investments in technological renovation will be required for Russia to maintain its high levels of production in the decades that follow and much of that must come via merger and acquisition, both within the Russian domestic market and with international industries. At the energy session in St. Petersburg in September 2003, Russia’s energy minister Igor Yusufov said that in the next twenty years Russia will need about $500 billion to develop its fuel and energy sector.11

During the Soviet period most exports went to Soviet-bloc countries, from Eastern Europe to Cuba, but those countries are less attractive today because most cannot pay their bills. With the revival of the oil industry, exports to the European Union (EU) have risen to 39 percent because the demand there is high, and payments are in cash. An energy summit with the EU in October 2000 brought a European pledge to help develop Russian reserves in return for a long-term energy commitment to the EU. Thus shipments to the EU are projected to rise to some 45 percent in the years ahead.12 In mid-2003 the Russian government produced a study on energy strategy to 2020. It projected a 30–35 percent increase in the production of primary fuel and energy resources, the continued importance of the European market, an expansion of oil deliveries to Asia from the current 3 percent to 30 percent of sales, and greater attention to the Americas.13

Russian Oil Fields and Production

Russia is the largest country in the world, and most of it is undeveloped. That means it is often very difﬁcult to explore, extract, process and transport oil from a site.14 The ﬁelds today can be divided into two categories. There are the older ﬁelds, mainly in western Siberia, that while they still produce the bulk of the product know that their years are numbered.15 And there are the new or “green” ﬁelds on the fringes of the older ones, ranging geographically from the Antarctic to Russian territory on the eastern Paciﬁc coast. There is much disagreement as to how extensive Russia’s reserves are in these areas, due in part to a lack of accurate information and differing yardsticks. Estimates range from the eighth largest to perhaps the largest in the world.16

Russia’s most important oil areas, both producing and potential, are the following.

• western Siberia, where most of the early and 70 percent of current production takes place, particularly in the Nizhnevartovsk/Surgut area;

• the western basins between the Caspian and Barents Seas;

• eastern Siberia, where the reserves are considered particularly rich but “green” and difﬁcult to access;

• the Arctic domain; and

• the currently booming basin of Sakhalin on the Paciﬁc margin.17

The Russians have strong interest also in the oil produced in neighboring countries, and in pipelines passing through other countries, most of which were part of the now defunct Soviet Union. For example, in late August 2003 TNK-BP shareholders expressed interest in the privatization of 66 percent in the Turkish oil company Tupras. Since 9/11 in particular, Russian leaders have promoted closer bilateral and multilateral relations in central Asia and the Caucasus and negotiated, as yet unsuccessfully, which of the ﬁve countries bordering on the Caspian Sea (Russia, Kazakhstan, Turkmenistan, Iran and Azerbaijan) own how much of its oil-rich bed. Private and state-owned energy companies have also become very active throughout the region.18

Two additional problems require comment here, and very substantial government and private attention. First, the vulnerability of Russia’s industry generally, and its thousands of miles of oil pipelines in particular, to sabotage. The impact of **terrorist attacks on the oil industry**, which was the subject of the 1999 James Bond ﬁlm The World Is Not Enough, became reality in post–Saddam Hussein Iraq and **could become enormously disruptive to the Russian system.** Also, threats to the environment have resulted in destruction and promise more. Governments and environmental groups have responded, with reasonable and sometimes unreasonable demands. Nordic and Baltic states say Russian tankers in northern seas are a threat to the Arctic environment. Therefore, they will apply to the United Nations to get the Baltic Sea designated a “Particularly Sensitive Sea Area” so that the tankers will have to stick to narrow lanes and use pilots near the coasts. On the other side of the world, a Russian/Japanese team has charged that exploration and drilling in the Sakhalin region in Russian east Asia are threatening the sea eagle population and in violation of treaties to protect migratory birds. Some pressure groups have advanced environmental interests, while others have weakened them.19

**Extinction**

**Filger 09** (Sheldon Filger, author and blogger for the Huffington Post, “Russian Economy Faces Disastrous Free Fall Contraction”, http://www.globaleconomiccrisis.com/blog/archives/356)

In Russia, historically, economic health and political stability are intertwined to a degree that is rarely encountered in other major industrialized economies. It was the economic stagnation of the former Soviet Union that led to its political downfall. Similarly, Medvedev and Putin, both intimately acquainted with their nation's history, are unquestionably alarmed at the prospect that Russia's economic crisis will endanger the nation's political stability, achieved at great cost after years of chaos following the demise of the Soviet Union. Already, strikes and protests are occurring among rank and file workers facing unemployment or non-payment of their salaries. Recent polling demonstrates that the once supreme popularity ratings of Putin and Medvedev are eroding rapidly. Beyond the political elites are the financial oligarchs, who have been forced to deleverage, even unloading their yachts and executive jets in a desperate attempt to raise cash. Should the Russian economy deteriorate to the point where economic collapse is not out of the question, the impact will go far beyond the obvious accelerant such an outcome would be for the Global Economic Crisis. There is a geopolitical dimension that is even more relevant then the economic context. Despite its economic vulnerabilities and perceived decline from superpower status, Russia remains one of only two nations on earth with a nuclear arsenal of sufficient scope and capability to **destroy the world** as we know it. For that reason, it is not only President Medvedev and Prime Minister Putin who will be lying awake at nights over the prospect that a national economic crisis can transform itself into a virulent and destabilizing social and political upheaval. It just may be possible that U.S. President Barack Obama's national security team has already briefed him about the consequences of a major economic meltdown in Russia for the peace of the world. After all, the most recent national intelligence estimates put out by the U.S. intelligence community have already concluded that the Global Economic Crisis represents the greatest national security threat to the United States, due to its facilitating political instability in the world. During the years Boris Yeltsin ruled Russia, security forces responsible for guarding the nation's nuclear arsenal went without pay for months at a time, leading to fears that desperate personnel would illicitly sell nuclear weapons to terrorist organizations. If the current economic crisis in Russia were to deteriorate much further, how secure would the Russian nuclear arsenal remain? It may be that the financial impact of the Global Economic Crisis is its least dangerous consequence.

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# 2NC Gender K Cards

**The use of fear both destroy the ability to truly limit the president AND create worst atrocity – historical movements prove**

**Rana 11** Aziz RANA Law @ Cornell ’11 “Who Decides on Security?” Cornell Law Faculty Working Papers. Paper 87. http://scholarship.law.cornell.edu/clsops\_papers/87 p. 1-7

Today politicians and legal scholars routinely invoke fears that the balance between liberty and security has swung drastically in the direction of government’s coercive powers. In the post-September 11 era, such worries are so commonplace that in the words of one commentator, “it has become part of the drinking water of this country that there has been a trade-off of liberty for security.”1 According to civil libertarians, centralizing executive power and removing the legal constraints that inhibit state violence (all in the name of heightened security) mean the steady erosion of both popular deliberation and the rule of law. For Jeremy Waldron, current practices, from coercive interrogation to terrorism surveillance and diminished detainee rights, provide government the ability not only to intimidate external enemies but also internal dissidents and legitimate political opponents. As he writes, “We have to worry that the very means given to the government to combat our enemies will be used by the government against its enemies.”2 Especially disconcerting for many commentators, executive judgments – due to fears of infiltration and security leaks – are often cloaked in secrecy. This lack of transparency undermines a core value of democratic decisionmaking: popular scrutiny of government action. As U.S. Circuit Judge Damon Keith famously declared in a case involving secret deportations by the executive branch, “Democracies die behind closed doors. . . . When government begins closing doors, it selectively controls information rightfully belonging to the people. Selective information is misinformation.”3 In the view of no less an establishment figure than Neal Katyal, now the Principal Deputy Solicitor General, such security measures transform the current presidency into “the most dangerous branch,” one that “subsumes much of the tripartite structure of government.”4 Widespread concerns with the government’s security infrastructure are by no means a new phenomenon. In fact, such voices are part of a sixty-year history of reform aimed at limiting state (particularly presidential) discretion and preventing likely abuses. What is remarkable about these reform efforts is that, every generation, critics articulate the same basic anxieties and present virtually identical procedural solutions. These procedural solutions focus on enhancing the institutional strength of both Congress and the courts to rein in the unitary executive. They either promote new statutory schemes that codify legislative responsibilities or call for greater court activism. As early as the 1940s, Clinton Rossiter argued that only a clearly established legal framework in which Congress enjoyed the power to declare and terminate states of emergency would prevent executive tyranny and rights violations in times of crisis.5 After the Iran-Contra scandal, Harold Koh, now State Department Legal Adviser, once more raised this approach, calling for passage of a National Security Charter that explicitly enumerated the powers of both the executive and the legislature, promoting greater balance between the branches and explicit constraints on government action.6 More recently, Bruce Ackerman has defended the need for an “emergency constitution” premised on congressional oversight and procedurally specified practices.7 As for increased judicial vigilance, Arthur Schlesinger argued nearly forty years ago, in his seminal book The Imperial Presidency (1973), that the courts “had to reclaim their own dignity and meet their own responsibilities” by abandoning deference and by offering a meaningful check to the political branches.8 Today, Lawrence Tribe and Patrick Gudridge once more imagine that, by providing a powerful voice of dissent, the courts can play a critical role in balancing the branches. They write that adjudication can “generate[]—even if largely (or, at times, only) in eloquent and cogently reasoned dissent—an apt language for potent criticism.”9 The hope – returned to by constitutional scholars for decades – has been that by creating clear legal guidelines for security matters and by increasing the role of the legislative and judicial branches, government abuse can be stemmed. Yet despite this reformist belief, presidential and military prerogatives continue to expand even when the courts or Congress intervene. Indeed, the ultimate result has primarily been to entrench further the system of discretion and centralization. In the case of congressional legislation (from the 200 standby statutes on the books to the postSeptember 11 and Iraq War Authorizations for the Use of Military Force to the Detainee Treatment Act and the Military Commissions Acts), this has often entailed Congress self-consciously playing the role of junior partner – buttressing executive practices by providing its own constitutional imprimatur to them. Thus, rather than rolling back security practices, greater congressional involvement has tended to further strengthen and internalize emergency norms within the ordinary operation of politics.10 As just one example, the USA PATRIOT Act, while no doubt controversial, has been renewed by Congress a remarkable ten consecutive times without any meaningful curtailments.11 Such realities underscore the dominant drift of security arrangements, a drift unhindered by scholarly suggestions and reform initiatives. Indeed, if anything, today’s scholarship finds itself mired in an argumentative loop, re-presenting inadequate remedies and seemingly incapable of recognizing past failures. What explains both the persistent expansion of the federal government’s security framework as well as the inability of civil libertarian solutions to curb this expansion? In this article I argue that the current reform debate ignores the broader ideological context that shapes how the balance between liberty and security is struck. In particular, the very meaning of security has not remained static but rather has changed dramatically since World War II and the beginning of the Cold War. This shift has principally concerned the basic question of who decides on issues of war and emergency. And as the following pages explore, at the center of this shift has been a transformation in legal and political judgments about the capacity of citizens to make informed and knowledgeable decisions in security domains. Yet, while underlying assumptions about popular knowledge – its strengths and limitations – have played a key role in shaping security practices in each era of American constitutional history, this role has not been explored in any sustained way in the scholarly literature. As an initial effort to delineate the relationship between knowledge and security, I will argue that throughout most of the American experience, the dominant ideological perspective saw security as grounded in protecting citizens from threats to their property and physical well-being (especially those threats posed by external warfare and domestic insurrection). Drawing from a philosophical tradition extending back to John Locke, politicians and thinkers – ranging from Alexander Hamilton and James Madison at the founding to Abraham Lincoln and Roger Taney – maintained that most citizens understood the forms of danger that imperiled their physical safety. The average individual knew that securing collective life was in his or her own interest, and also knew the institutional arrangements and practices that would fulfill this paramount interest. A widespread knowledge of security needs was presumed to be embedded in social experience, indicating that citizens had the skill to take part in democratic discussion regarding how best to protect property or to respond to forms of external violence. Thus the question of who decides was answered decisively in favor of the general public and those institutions – especially majoritarian legislatures and juries – most closely bound to the public’s wishes. What marks the present moment as distinct is an increasing repudiation of these assumptions about shared and general social knowledge. Today the dominant approach to security presumes that conditions of modern complexity (marked by heightened bureaucracy, institutional specialization, global interdependence, and technological development) mean that while protection from external danger remains a paramount interest of ordinary citizens, these citizens rarely possess the capacity to pursue such objectives adequately. Rather than viewing security as a matter open to popular understanding and collective assessment, in ways both small and large the prevailing concept sees threat as sociologically complex and as requiring elite modes of expertise. Insulated decision-makers in the executive branch, armed with the specialized skills of the professional military, are assumed to be best equipped to make sense of complicated and often conflicting information about safety and self-defense.12 The result is that the other branches – let alone the public writ large – face a profound legitimacy deficit whenever they call for transparency or seek to challenge presidential discretion. Not surprisingly, the tendency of procedural reform efforts has been to place greater decision-making power in the other branches and then to watch those branches delegate such power back to the very same executive bodies. How did the governing, expertise-oriented concept of security gain such theoretical and institutional dominance and what alternative formulations exist to challenge its ideological supremacy? In offering an answer to these questions, I begin in Part II by examining the principal philosophical alternatives that existed prior to the emergence of today’s approach, one of which grounded early American thought on security issues. I refer to these alternatives in the Anglo-American tradition as broadly ‘Hobbesian’ and ‘Lockean’ and develop them through a close reading of the two thinkers’ accounts of security. For all their internal differences, what is noteworthy for my purposes is that each approach rejected the idea – pervasive at present – that there exists a basic divide between elite understanding and mass uncertainty. In other words, John Locke and even Thomas Hobbes (famous as the philosopher of absolutism) presented accounts of security and self-defense that I argue were normatively more democratic than the current framework. Part III will then explore how the Lockean perspective in particular took constitutional root in early American life, focusing especially on the views of the founders and on the intellectual and legal climate in the mid nineteenth century. In Part IV, I will continue by detailing the steady emergence beginning during the New Deal of our prevailing idea of security, with its emphasis on professional expertise and insulated decision-making. This discussion highlights the work of Pendleton Herring, a political scientist and policymaker in the 1930s and 1940s who co-wrote the National Security Act of 1947 and played a critical role in tying notions of elite specialization to a new language of ‘national security.’ Part V will then show how Herring’s ‘national security’ vision increasingly became internalized by judicial actors during and after World War II. I argue that the emblematic figure in this development was Supreme Court Justice Felix Frankfurter, who not only defended security expertise but actually sought to redefine the very meaning of democracy in terms of such expertise. For Frankfurter, the ideal of an ‘open society’ was one premised on meritocracy, or the belief that decisions should be made by those whose natural talents make them most capable of reaching the technically correct outcome. According to Frankfurter, the rise of security expertise meant the welcome spread of meritocratic commitments to a critical and complex arena of policymaking. In this discussion, I focus especially on a series of Frankfurter opinions, including in Ex parte Quirin (1942), Hirabayashi v. United States (1943), Korematsu v. United States (1944), and Youngstown Steel & Tube Co. v. Sawyer (1952), and connect these opinions to contemporary cases such as Holder v. Humanitarian Law Project (2010). Finally, by way of conclusion, I note how today’s security concept – normatively sustained by Frankfurter’s judgments about merit and elite authority – shapes current discussions over threat and foreign policy in ways that often inhibit rather than promote actual security. I then end with some reflections on what would be required to alter governing arrangements. As a final introductory note, a clarification of what I mean by the term ‘security’ is in order. Despite its continuous invocation in public life, the concept remains slippery and surprisingly under-theorized. As Jeremy Waldron writes, “Although we know that ‘security’ is a vague and ambiguous concept, and though we should suspect that its vagueness is a source of danger when talk of trade-offs is in the air, still there has been little or no attempt in the literature of legal and political theory to bring any sort of clarity to the concept.”13 As a general matter, security refers to protection from those threats that imperil survival – both of the individual and of a given society’s collective institutions or way of life. At its broadest, these threats are multidimensional and can result from phenomena as wide-ranging as environmental disasters or food shortages. Thus, political actors with divergent ideological commitments defend the often competing goals of social security, economic security, financial security, collective security, human security, food security, environmental security, and – the granddaddy of them all – national security. But for my purposes, when invoked without any modifier the word ‘security’ refers to more specific questions of common defense and physical safety. These questions, emphasizing issues of war and peace, are largely coterminous with what Franklin Delano Roosevelt famously referred to in his “Four Freedoms” State of the Union Adresss as “the freedom from fear”: namely ensuring that citizens are protected from external and internal acts of “physical aggression.”14 This definitional choice is meant to serve two connected theoretical objectives. First, as a conceptual matter it is important to keep the term security analytically separate from ‘national security’ – a phrase ubiquitous in current legal and political debate. While on the face of it, both terms might appear synonymous, my claim in the following pages is that ‘national security’ is in fact a relatively novel concept, which emerged in the mid twentieth century as a particular vision of how to address issues of common defense and personal safety. Thus national security embodies only one of a number of competing theoretical and historical approaches to matters of external violence and warfare. Second, and relatedly, it has become a truism in political philosophy that the concept of liberty is plural and multifaceted.15 In other words, different ideals of liberty presuppose distinct visions of political life and possibility. Yet far less attention has been paid to the fact that security is similarly a plural concept, embodying divergent assumptions about social ordering. In fact, competing notions of security – by offering different answers to the question of “who decides?” – can be more or less compatible with democratic ideals. If anything, the problem of the contemporary moment is the dominance of a security concept that systematically challenges those sociological and normative assumptions required to sustain popular involvement in matters of threat and safety.

**Grim predictions and scenario planning are hyped up by defense analysts to justify a constant global military presence, recreating the problems**

**Carr 10** [Matt, Writer and Journalist “Slouching towards dystopia: the new military futurism” Institute of Race Relations, http://rac.sagepub.com/cgi/content/abstract/51/3/13]

The military has also shown a keen interest in the study of the ‘possible future’ in the early twenty-first century, particularly in the United States. In 1997, the US National Intelligence Council (NIC) published Global Trends 2010, the first of three reports in its ambitious 2020 Project that aims to predict the ‘forces that will shape our world’ over a two-decade period. In 2001, the prestigious US Air Force thinktank, the RAND Corporation, established the Frederick S. Pardee Center for Longer Range Global Policy and the Future Human Condition. Since 2000, the US Joint Forces Command has published two studies of the international military and security environment over the next two decades and its implications for the military. Military and national security research institutions such as the US Army’s Strategic Studies Institute (SSI) regularly stage conferences and symposia on ‘Long Range Planning and Forecasting’, ‘Scenario Planning’ and ‘Projecting Future Battlespaces and Scenarios’. These studies are not limited to purely military concerns. Military futurists also devote considerable attention to more mainstream futurological subjects, such as social and economic transformation, demographics, urbanism, cultural trends and climate change. What explains the military’s interest in the future and what does this fascination tell us about the present? Military futurism is not a historical novelty in itself. Armies have routinely engaged in contingency planning ever since the German armed forces pioneered ‘long range planning’ in the late nineteenth century. Military futurism really came into its own during the cold war, when the RAND Corporation began conducting regular war games and simulations to predict the likely outcomes of nuclear and conventional military confrontations with the Soviet Union. In the 1950s and 1960s, RAND luminaries such as Herman Kahn, Leo Roster and Albert Wohlstetter built illustrious careers around ‘scenario planning’ and ‘systems thinking’, which attempted to provide US policymakers with the conceptual tools to anticipate ‘alternate’ or ‘surprising’ military futures by ‘thinking the unthinkable’. By the 1980s, forecasting, war-gaming and scenario planning had become routinely integrated into US military practice. While studies such as Innovation Task Force 2025 (1988) and AirLand Battle 2000 (1982) considered the transformation of the armed forces or rehearsed NATO war plans against the Warsaw Pact, others continued to explore the outer limits of the unthinkable future. One report published by the Department of Defense in the early years of the Reagan presidency imagined a nuclear war in which the White House, the Pentagon and much of civilisation were destroyed, but computers continued in the aftermath ‘to run a war no human mind can control’, directing space satellites, nuclear weapons and armies of robots ‘that can gallop like horses and walk like men, carrying out computerised orders as they roam the radioactive battlefield’.2 Cold war military futurism also spilled over into the private sector. In 1961, Herman Kahn founded the Hudson Institute, a conservative thinktank and research centre which aspires to provide ‘global leaders in government and business’ with the tools to ‘manage strategic transitions to the future’.3 In the 1970s, Royal Dutch Shell pioneered the corporate use of scenario planning in the oil industry in response to what was perceived as a new climate of uncertainty and unpredictability following the OPEC oil embargo. This overlapping nexus between the military and corporate futurism has continued ever since. Not only do the US military and the private sector share the same concern with geopolitical and international developments pertaining to US national security and the future of the capitalist world economy, but private companies and institutions specialising in scenario planning and risk management also work closely with the military in developing futuristic analyses. The Hudson Institute’s Center for Political-Military Analysis produces regular studies for the military on the ‘critical variables’ and ‘nonlinear forces’ affecting international politics.4 Both the Pentagon and the Department of Homeland Security have also commissioned futuristic studies from scenario planning specialists such as the Global Business Network (GBN) and the giant management consultancy firm Booz Allen Hamilton. In 2006, Booz Allen won a $32 million contract to provide the Pentagon’s Training and Doctrine Command (TRADOC) with war-gaming materials and simulations, whose aim, according to the company spokesman, was to ‘write the history of the future’ and provide the Pentagon with a ‘picture of the world between 2001 and 2025’.5 All this is in keeping with the tradition developed by Kahn and his RAND colleagues but the new military futurism is also strikingly different from its predecessors. Where the cold war futurists were primarily concerned with the Soviet Union and scenario planning for nuclear war, twenty-first century futurists are concerned with very different ‘threats’ and ‘challenges’. One of the most prolific producers of futurological studies is the Pentagon’s Office of Net Assessment (ONA), an obscure but influential thinktank run by the veteran RAND intellectual and military futurist Andrew Marshall. Each year, the ONA commissions dozens of studies from academics and thinktanks like the Hudson Institute and private consulting companies. Most of these reports are classified but the talkingpointsmemo.com website recently used the Freedom of Information Act to obtain an index of ONA publications. These include titles such as Pandora’s Boxes: the mind of jihad (June 2007), Why they Won’t Know What Hit Them: are Arabs thinking about the consequences of another 9/11 (July 2006), Europe 2025: mounting security challenges amidst declining competitiveness (September 2008), Role of High Power Microwave Weapons in Future Intercontinental War (July 2007) and even German Liberals and the Integration of Muslim Minorities in Germany (December 2006).6 These titles are an indication of the new concerns of contemporary military futurism. The new military futurists also differ from their predecessors in their generally grim perspective on the future. In Rethinking the Unthinkable (1963), Herman Kahn attempted to demonstrate that a nuclear war might not be survivable and therefore ‘thinkable’. This scenario was intended to be positive – albeit from a hawkish foreign policy perspective – but contemporary military futurism is often extremely pessimistic in its depictions of the twenty-first century ‘security environment’. Such pessimism is partly a reflection of the prevailing mood in the US national security establishment. Ever since the end of the cold war, US security analysts have argued that the US was vulnerable to attack by elusive and unpredictable enemies that were potentially more dangerous than the former Soviet Union. Such predictions appeared to be confirmed by the catastrophic events of September 11. On the one hand, the 9/11 attacks were ‘predictable’, in the sense that an attack of some kind had been expected. At the same time, the attacks constituted what futurologists call ‘wild cards’, ‘discontinuities’ or ‘surprising events with huge consequences’, which force a new set of expectations about what the future might contain. Some US security analysts have since added the Iraq insurgency to the category of ‘strategic shocks’ and attributed the failure to predict it to the same ‘failure of imagination’ that helped make the 9/11 attacks possible. The result is a new willingness amongst the US national security establishment to consider further ‘strategic shocks’ by ‘imagining the unimaginable’ – a tendency which has generated imaginative scenarios that sometimes owe more to apocalyptic Hollywood movies, manga comics and science fiction than they do to sober analysis. Faced with a future that seems fraught with unpleasant surprises, the Pentagon has embarked on some outlandish and even bizarre attempts to try to reduce the element of uncertainty and unpredictability. One ongoing project aims to recruit social scientists to compile a computerised database of cultural, religious and political beliefs in every country in the world that will supposedly enable the military to predict which countries are most likely to succumb to unrest, insurgency or terrorism. In 2002, the Pentagon’s cutting edge Defense and Advanced Research Projects Agency (DARPA) came close to introducing a ‘terrorism futures market’ based on the financial futures market, which invited bets on when and where terrorist events were likely to occur in order to predict them beforehand. This scheme was abandoned when it was pointed out that some organisations might deliberately carry out attacks in order to profit from them. In 2007, DARPA awarded Lockheed Martin a contract to develop an ‘Integrated Crises Early Warning System’ (ICEWS) that its designers claimed will ‘anticipate and respond to worldwide political crises and predict events of interest and stability of countries of interest with greater than 80 percent accuracy’ in the same way that meteorologists predict the weather.7 These initiatives cannot be attributed simply to an overzealous desire to protect the US ‘homeland’ from ‘another 9/11’. The broad scope of contemporary military futurism is partly a consequence of changing concepts of warfare in the early twenty-first century, with its new emphasis on ‘asymmetric’ warfare, terrorism and insurgency across the global ‘battlespace’ rather than conventional wars between states. The commitment to ‘fourth generation warfare’ is fuelled by a new sense of the fragility and instability of the international state system, coupled with the belief that the nation-state in the early twenty-first century is increasingly vulnerable to global economic turbulence, civil and ethnic conflict and the violent activities of ‘non-state actors’ – all of which are perceived to pose threats to global security and even the future of globalisation itself. The ‘uncertainty’, instability and risk that military futurists project onto the future not only emanates from nuclear-armed ‘rogue states’ or ‘non-state actors’, however. A recurring theme in military futurist scenarios concerns the possibility that the emergence of China, India and Brazil as major economic powers may be accompanied by a decline in US – and western – global hegemony and that the ‘unipolar world’ of the post-cold war era may be drawing to an end. With the demise of the Soviet Union, US military thinking has been dominated by the concept of the ‘Revolution in Military Affairs’ (RMA) – a term used to describe periods of history in which one particular military power or group of powers outstrips all potential rivals. The display of US technological firepower in the first Gulf War convinced many military planners that this position is now occupied by the US. But this belief is often accompanied by a realisation of the limitations of US military power and anxiety that the RMA may not be permanent. The notion of the US RMA is often attributed to the Pentagon’s ‘futurist-in-chief’ Andrew Marshall at the ONA. Celebrated as a visionary genius by his admirers and denounced as a paranoiac by his enemies, Marshall is a long-time associate of Donald Rumsfeld and Paul Wolfowitz, and was given a major role by Rumsfeld in the preparation of the 2002 Quadrennial Defense Review, which the US Armed Forces use as a medium-range planning guide to justify its budget requests to Congress. That same year, Marshall commissioned an 85-page monograph for the ONA from Booz Allen Hamilton entitled Military Advantage in History, which studied some of the most successful military conquerors of the past for lessons on how the United States ‘should think about maintaining military advantage in the twenty-first century’.8 Though the study identified the United States as the ‘dominant military power in the world’, it nevertheless warned that such dominance might not be permanent and that ‘barring a more innovative approach the process leading to its substantial erosion has already been set in motion’. To contribute to this process of innovation, the report sought inspiration from imperial conquerors such as Alexander the Great, Genghis Khan and particularly from Rome, whose 600-year dominance, the authors argued, ‘suggests that it is possible for the United States to maintain its military advantage for centuries if it remains capable of transforming its forces before an opponent can develop counter-capabilities’.9 Stripped of its anachronistic application of contemporary military jargon, its shallow scholarship and its unproblematic comparisons between the United States and previous empires, this document was essentially a variant on ONA futuristic studies such as Preserving American Primacy (January 2006) and Preserving US Military Supremacy (August 2001). The same objectives are shared by the neoconservative thinktank Project for the New American Century (PNAC) in its 2000 call for US military transformation, Rebuilding America’s Defenses. The PNAC couples a boyish fascination with sci-fi weaponry with a strident insistence on the need to preserve US ‘primacy’, ‘geo-political pre-eminence’, ‘dominance’ and a ‘global security order that is uniquely friendly to American principles and prosperity’.10 This determination to shape, control and ‘dominate’ the turbulent and conflict-prone twenty-first century in the foreseeable (and unforeseeable) future is a key component of the new military futurism. On the one hand, military futurism is a by-product of the megalomaniac military doctrine of ‘full spectrum dominance’. At the same time, its predictions about the future express very real fears amongst the US ruling elite that the United States is inextricably connected to a world that may be slipping out of its control. Perhaps not surprisingly, therefore, the new military futurists are often considerably more pessimistic than their predecessors and tend to paint a very bleak future of an unsafe and unstable world that **demands a constant military presence to hold it together**. From Yevgeny Zemyatin’s We to Brave New World and Orwell’s Nineteen Eighty-Four, twentieth-century writers have used dystopian visions of the future as a warning or as a satirical commentary on the often lethal consequences of twentieth-century utopianism. The dystopias of the new military futurists have a very different purpose. The US military often tends to perceive itself as the last bastion of civilisation against encroaching chaos and disorder. The worse the future is perceived to be, the more these dark visions of chaos and disorder serve **to justify limitless military ‘interventions’, techno-warfare, techno-surveillance and weapons procurement programmes, and the predictions of the military futurists are often very grim indeed.**

**Militarized “war on terror” makes attacks inevitable – impossible to solve the root causes without a gendered understanding of IR**

**Parashar 09** [Swati, prof @ Lancaster University, Cambridge Review of International Affairs, Volume 22, Number 2, June, “Feminist international relations and women militants: case studies from Sri Lanka and Kashmir” Ebsco]

The underlying assumption behind the ‘war on terror’ is the view that a definite military victory against ‘terrorism’ is possible in the same way that other ‘isms’ have been defeated. This approach can be problematized by the understanding that acts of individual or group ‘terrorism’ are backed by a collective rationality (Crenshaw 1998). This collective rationality can be probed by addressing the ‘why’ question. In other words, ‘terrorism’ is the method of warfare that cannot be eliminated unless there is a sustained effort to engage with the causes and subjectivities behind these wars that use ‘terrorism’ as a strategy. Bruce Hoffman, in one of his first works, Inside terrorism, adds complex meanings to the simple strategy of terror. ‘Terrorism’, as Hoffman defines it, is the deliberate creation and exploitation of fear through violence or the threat of violence in the pursuit of political change. All terrorist acts involve violence or the threat of violence. Terrorism is specifically designed to have far reaching psychological effects beyond the immediate victim(s) or object of the terrorist attack. (Hoffman 1998, 43 – 44) This explains the ‘what’ of terrorism but there is no ‘why’ or even ‘who’ addressed here. I argue that definitions like this are unable to capture the range of militant activities and political violence attributed to non-state actors. Ethnic, religious, political and cultural factors play an important role in the nature of violent tactics that militant groups adopt. The challenge faced by so-called Third World theorists and feminist IR scholars has been to deconstruct state-centric discourse and deal with the ‘why’ question of ‘terrorism’; a ‘why’ question that has other variants that include ‘who’ and for ‘whom’. Class, caste (in South Asia), religion and ethnicity are also variables that intersect with gender to produce analytical categories that can effectively engage with ‘terrorism’ and political violence. The contours of ‘terrorism’—or ‘militancy’ as I prefer to call it2—cannot be mapped along the territories of nation states alone. These territories would have to be redrawn along the lines of significant human variables, of which gender is an important constituent. However, in addition to the ‘why’ question, feminists must also grapple with the ‘masculinity and militarization’ dilemma. Some feminists have argued that wars and conflicts are direct manifestations of militarism traditionally identified with males (Enloe 1983; 2000; Chenoy 2002). Radical feminists have rejected the idea of women fighting in men’s wars, claiming a special affinity of women with peace (Tickner 2001). Other feminists have acknowledged that women suffer the most as victims of wars and conflicts and yet these feminists refuse to look beyond the ‘victimhood’ that they enforce on violent women (Bloom 2005; Victor 2003). There is a tension for feminists between rejecting masculine militarization and, as a parallel process, accepting women’s multiple roles and gender displacement in these militarized projects. My case studies shall highlight this tension, as well as silences that feminists impose on militant women. These silences are imposed as feminists struggle to identify that meaningful and yet homogeneous category called ‘women’ (Sylvester 1994). The ‘war on terror’, with its conflicting ideologies and worldviews, strongly reinforces gendered understandings and identities and pushes women out of the IR theatre (Sjoberg and Gentry 2007; Sylvester and Parashar 2009). I engage with two categories of militant women: women in ethno-nationalist movements and women in religio-political movements. With case studies drawn from conflicts in Sri Lanka and Kashmir, I attempt to highlight the multiple narrativization taking place at the margins of mainstream IR. Furthermore, these two categories are not mutually exclusive; ethno-nationalist movements may draw inspiration from religious ideologies as is the case in Palestine and Chechnya. I wish to draw a distinction between movements driven by political demands for separatism against the state which privilege the concerns of their community, and those that construct the ‘other’ on the basis of religio-political interests (Hoffman 1998, 45–129). These two militant projects in South Asia use a range of violent tactics, and women are engaged in them at logistical, ideological and even combatant levels, including a role as suicide bombers. Gendered ‘terror’ For women as much as for men, the experience of violent conflict, as with social life, is not built upon a single discourse. (Moser and Clark 2001) Gender and militancy have an intimate relationship. Gender may not have a strategy, but the strategy of militancy is a ‘gendered’ one: gender matters in understanding 9/11 and other ethno-nationalist and religio-political conflicts on various fronts. Firstly, the largest numbers of victims of militancy emanating from long-lasting conflicts are women and children, who suffer violent deaths, displacement, emotional trauma and other problems in conflict zones (Rehn and Sirleaf 2002). A gendered discourse has traditionally looked at women as hapless victims of conflicts and militant attacks, or as members of women’s groups that stand in opposition to conflict and militarization. Feminists have argued that a more peaceful world is possible only when women realize their full potential in an environment of equal opportunities. Feminist scholarship has brought into focus the notions of negotiation, good offices, mediation, articulation, multi-track diplomacy and other methods of peaceful resolution of conflict. Secondly, women as the cultural bearers of national identities become upholders of the key values of the conflicting sides. In other words, women’s bodies and gendered identities become the territories on which militants and counter-militants wage their wars and play out their ideologies. Religious fundamentalist groups target women as the potential bearers of their ideology by reinforcing religious symbols such as the veil and by excluding women from public spaces. The Taliban’s radical fundamentalist form of Sharia (Islamic) rule in Afghanistan banned women’s education, ordered them out of public spaces and rendered them invisible. The misogynist ideology of the Taliban and al-Qaeda subjected women to extreme forms of subjugation, indignities and private forms of violence (Caiazza 2001). States in their anti-militant operations, on the other hand, often have the ‘emancipation’ of women on their agenda, claiming the superiority of their democratic and liberal ideology over the destructive and inhuman worldview of the militants. We have seen in recent times how the US-led ‘war on terror ’ in Afghanistan was gradually reported as a ‘humanitarian intervention’ to save the Afghan women from oppressive practices and restore freedom in their lives. We have also witnessed how the ‘war on terror’ in Iraq against weapons of mass destruction was subsequently reported as a war to save Iraqis (women included) from the oppressive and ruthless regime of Saddam Hussein’s Baath Party. The national identity is inscribed on women’s bodies through their gendered representations. In the same genre, Nira Yuval Davis reminds us how ‘deveiling women in Ataturk Turkey’s revolution of 1917, which was aimed at constructing Turkey as a modern nation state, was as important as veiling them has been to Muslim fundamentalists in the contemporary Middle East ’ (Davis 1997, 98). A third and important way in which militancy and gender are linked is the increasing militarization of women who participate in the ‘postmodern wars’ (Cooke and Woollacott 1993, 177–204) and support militant activities. Cynthia Enloe’s (2000) feminist ‘manoeuvres’ on the role of women in the militarization process and their incorporation into militarized ideologies and military set-ups explain how women’s gendered identities and bodies become marked territories on which both states and non-state militant groups wage their wars and construct national narratives. Enloe’s work offers an insight into state militarization tactics and their subtle, and not so subtle, impact on women’s lives. However, the gendered variables she identifies—such as the ideology of masculinity, parade, alliances and weaponry—resonate in masculine high politics, terror tactics and armed attacks alongside feminized concepts of patriotic motherhood, armed heroines, national sacrifice and sexualized female warriors in both state and non- state militant projects. Many contemporary ethno-nationalist and politico- religious armed militant movements against states and their institutions also rely upon a particular version of the idea of the ‘liberated woman’, an ideological rhetoric that Enloe ascribes to state militaries. The intersections of gender and militant ‘manoeuvres’ has had an impact on the ‘democratization of fear’ and the ‘democratization of violence’ (Morgan 1989). The marginalization of women’s violence and agency is also based on popular characterizations of women as ‘mothers, monsters and whores’. Sjoberg and Gentry (2007, 222) conclude in their study of violent women and their gendered representations that these narratives marginalize all women—and not just the violent ones—by setting up ‘polarity between “violent” women and “normal” women who do not fit the mould of idealized femininity’. This perpetuates the idea of idealized and ‘hegemonic’ femininity, as well as masculinity. ‘Hegemonic masculinity’27 privileges male notions of militarism and statecraft while ‘hegemonic femininity’ represents women as passive victims of male violence or agents of patriarchal socio-political structures (as mothers, monsters or whores). Conventional prejudices (also supported by some feminists) have held that women should not have a physical or intellectual space in discourses (like wars and terrorism) that are male in orientation. Many feminists, on the other hand, have argued that gender roles should be deconstructed so that women can claim the same privileges and powers men have enjoyed in patriarchal systems.28 Feminists have analysed the inclusion of women into state militaries and other male-dominated professions and what these opportunities have meant for women (Enloe 1993; Davis 1997). However, there has been little gender analysis of women’s roles in non-state militancy projects.29 Another argument that IR scholars (feminists included) often make is that women’s concerns are within the category of what constitutes ‘non-traditional’ and ‘soft’ issues that have little bearing on the ‘harder’ issues of statecraft and political decision-making. Women are often labelled as inherently peaceful and their violence is explained as the consequence of male victimization and manoeuvring. Their agency expropriated, women are portrayed as having neither political ambitions nor nationalist/ religious aspirations (Chenoy 2002). I would argue that IR feminists need to draw upon their past theoretical advancements in which they replaced states with people (Enloe 1990; 2000), and recognize women as actors performing a multiplicity of roles, including the not so nice ones. Systemic stability and balance of power at any given time in international relations are at the cost of peripheral conflicts that acquire dangerous proportions. These peripheral wars suggest that gendered hierarchies are displaced as well as entrenched in wars that are extensions of political processes occurring more at the local level than at the global level. Therefore, feminists can claim that ‘high politics’ should be replaced by ‘low politics’. As women play important roles in political processes at the local level, we need to recognize the politics of women, instead of denying them the voice that challenges feminist scholars’ positions and prejudices. The politics behind and around the militant women in Sri Lanka and Kashmir, for example, must be recognized and analysed as an important part of mainstream developments which influence IR. Women’s participation has a variety of meanings in militant projects and in their basic understanding offer legitimacy to the project itself, apart from contributing to its overall success or failure.30 **Studying women’s political roles and participation would facilitate a deeper and better understanding of the conflicts in these regions than national security discourses or realist high politics**. The ‘feminine niche’ that is created wherein women’s participation in traditional male activities is pushed into the realm of ‘personal’ rather than the ‘political’ space raises important questions for further enquiry. It seems to suggest that women are incapable of thinking and acting out politics. Both case studies of women militants have shown how the ‘personal’ and the ‘political’ interact and influence each other. To exclude these voices implies imposing value judgments of what is ‘acceptable’ in women’s lives and behaviour. Recognizing only certain kinds of women’s activities is a problematic framework of gendered enquiry that strips women of difference and renders them powerless (Sjoberg and Gentry 2007; Hirsch and Spitzer 1993). Feminism’s primary agenda is to foreground the voices of women in discourses where women are conspicuously absent. IR feminists discuss how developments in IR and the so-called ‘hard masculine’ decision- making and policy framework impact upon and exclude about half of the world’s population. Should the argument about including women’s voices become subservient to concerns about which voices be privileged? Should the ‘choices’ women make dominate the decisions regarding which voices should be privileged? A useful framework for studying women militants has been laid out by Jessica West, in her study of the Chechen ‘black widows’ (West 2005). She argues that feminists should embrace their position at the margins of IR and the opportunities it provides to destabilize the hierarchies, exclusions and violence upon which IR is based. Feminist scholarship should be cautious about making value judgments about which women’s voices should be privileged, and resist attempts to create a ‘hegemonic femininity’. Mainstreaming women’s voices is always based on the politics of violence, exclusion and hierarchies. It is only at the margins of the discipline that feminism can achieve its end of a gender-sensitive framework of enquiry. West’s central argument is whether feminism remains ‘feminism’ if it is not speaking from the margins (West 2005). I would further ask, with reference to the militant women, whether feminism is ‘feminism’ if it does not speak ‘of’ and ‘within’ the margins. Perhaps the debate is less between feminist IR’s positioning in the margins or the mainstream and more about further exclusions of and scholastic violence towards women who participate in militant projects. I draw upon Sylvester’s postmodern feminist IR31 that argues for the acceptance and validity of the diverse experiences of women as the theoretical answer to the methodology of locating the voices of militant women. Sylvester (1994) provides an insight we cannot ignore: Can we have meaningful categories of women and question them too? It is ‘voice’ and not ‘choice’ that should foreground the inclusion of women’s perspectives in matters related to statecraft, foreign policy, conflicts, wars and peace. My proposition, therefore, is to locate the voices of militant women as part of the multiple narrativizations that take place in conflicts and wars and to problematize women as ‘women’. Notions of masculine and feminine boundaries, private and public spheres, victimhood and agency, should collapse into more flexible and porous frameworks. This would imply the introduction of new analytical tools to help us better understand the world. As Davis (1997) cautions, in any contemplation of gender relations in the military, it is never all men and all women in society who fill particular roles. Ethnic membership, class, age and ability play crucial roles in determining who is included and who is excluded from these roles. Conclusion I am a woman, hear me roar. It’s not always a pretty tune. (Goodman 2004) Even as women militants struggle to find their space within the religious and nationalist movements that they claim to be part of, feminist—and particularly feminist IR scholarship—struggles to create an intellectual and policy discourse for them. Through the two case studies, I have tried to establish that women participate in armed conflicts for a variety of different reasons and in different ways. Feminist IR is a dynamic field where methodology is constantly evolving and ‘dialogue and diversity are seen as significant strengths’ (Ackerly et al 2006, 15). The key question I asked myself before undertaking research on militant women was whether I would be investigating the different marginalized ‘voices’ or mapping the ‘silences’. I would like to clarify that I was not under the impression that there were these ‘voiceless’ women out there whom I would be giving a voice through my research. Their subject positioning at the margins, and even the ‘silences’ that are imposed on them within their communities, and also in scholarly discussions on gender and political violence, does not mean that women who support and participate in militant projects are ‘voiceless’ (Ackerly et al 2006, 132). I was more interested in the multiple voices of these women and the political, social and cultural processes of silencing. I went into my fieldwork with the notion that women—like men—think and act politics, and that there was a possibility that women’s politics could be different and revealing. I wanted to interpret the ‘political’ as much as the ‘social’ and ‘cultural’ in the lives of these women. The identity of women militants is multilayered, constructed by the societies they come from, by the militant and political extremist groups they are part of and by the dominant media images that romanticize and feminize them (Emmanuel 2002). Feminist IR can deconstruct the identities of women militants and engage with their violent politics without endorsing or condoning it in any way. I have argued for a more nuanced discourse about women militants, and a shift away from binary representations of women. The ‘public’ voices of these women militants do not necessarily negate the very private space of family and home where women have traditionally played out their conventional roles and politics. In a rather complex understanding of the gendered political subjectivities produced by these women and their actions, the silences speak, sometimes even to reinstate the silences. Armed militancy, therefore, is an opportunity for a few women to have a public presence, and yet it is an opportunity that seems to reinstate them further into the realm of the private. The reality is somewhere in between the binaries of agency and victimhood, private and public, voice and silence, as the case studies have demonstrated. Finally, I have also argued that gendering security implies incorporating a gender-sensitive discourse in the contemporary issues of security and militant movements. Feminists must question the current masculinist discourse on militancy and political violence, especially in the post-9/11 context. At the same time, they must make space for the diverse experiences and voices of women. Any attempts at gendering security discourse that result in ‘hegemonic femininity’ will reinforce stereotypes and perpetuate the exclusion of certain women from the international arena. It is thus imperative to locate the many voices of women who nurture personal, political, religious and nationalist aspirations within militant movements, and whose gender identity in specific cultural and social contexts determines the exact nature of the roles they can assume in their efforts to fulfill their aspirations.

**Your depiction of a violent Afghanistan entrenches Orientalism – reject it**

Stanski 9 -- Doctoral Student at Nuffield College, University of Oxford (Keith, 1/23/2009, "`So These Folks are Aggressive': An Orientalist Reading of `Afghan Warlords'," Security Dialogue 40(1), Sage)

Notions of a violent Afghan ‘Other’ persist in Anglo-American political thought about Afghanistan. As suggested at the outset of this article, the longevity of this cultural construct depends in large part on the lasting influence of Orientalist thought in Western attempts to claim greater political, economic and moral authority over the Global South. This section briefly examines some of the core tenets of Orientalism to suggest why and how this pattern of thought has long been, and continues to be, influential in the West’s repeated violent interventions in the Global South. To understand the continued influence of Orientalist thought requires returning to its longstanding argument about cultural difference. Orientalism presents the ‘Orient’ and the ‘West’ as starkly different, but mutually constitutive, cultural realms. But, perhaps more striking than the supposed difference between the two realms is the inherent inequality between them. Regardless of the context, the Orient is consistently cast as inferior to the West, as possessing clear deficiencies that only affirm its counterpart’s presumed superiority. For example, the supposed barbaric nature of the Orient only reinforces the West’s assumed superiority as a model civil political order. Orientalism’s argument about cultural difference advances an idealized vision of the lasting inequalities between the Orient and the West. At first glance, Orientalist accounts of cultural difference appear antiquated. Its idealized patterns seemingly reveal less about contemporary politics than about colonial times, when these types of stark assumptions about culture, race and gender were more explicit in popular discourse. However, to dismiss theories of Orientalism on these grounds risks overlooking its inherent mutability, its capacity to assume various forms depending on specific contexts. ‘Orientalism’, maintains Said, ‘depends for its strategy on this flexible positional superiority, which puts the Westerner in a whole series of possible relationships with the Orient without ever losing him the relative upper hand’ (1978: 7; emphasis in original). These archetypes appear in various forms, contexts and intensities across history; but, regardless of the context, the Orient is described as fundamentally different from and inferior to the West. Although it is important not to overstate the coherence of Orientalist thought, as it contains a number of inconsistencies, omissions and discrepancies, the longevity of this broad ideology of difference is inseparable from its capacity to preserve the West’s presumed superiority over the Global South, regardless of the historical context. More is at stake in Orientalism’s persistence than just how one culture comes to understand another. As suggested above, this discursive tradition has long informed how the West has attempted to expand its imperial influence over the Global South. Orientalist logic shapes many of the core ideologies, identities and arguments that comprise this longstanding project. As Said (1978: 6) concludes, ‘Orientalism . . . is not an airy European fantasy about the Orient, but a created body of theory and practice in which, for many generations, there has been a considerable material investment.’ Orientalism is not just a way of thinking about the Global South, but also a way of conceptualizing its political landscape in a way that makes it susceptible to certain kinds of management. Three of the patterns identified in this article are demonstrative of Orientalism’s lasting influence in how the West attempts to manage the Global South. First, imperial powers return to Orientalist patterns to justify their expanding influence across the Global South. This strategy can be seen in how the stark contrasts that distinguish Orientalist thought can be manipulated to create urgent challenges that seemingly warrant greater Western involvement. For example, in the months preceding the 2004 Afghan presidential election, US officials began to draw an especially crude caricature of ‘Afghan warlords’, casting many of their former allies and other militia leaders as endangering the ongoing state-building process. This portrayal of Afghan politics helped justify the United States’ increasing intervention in all facets of national politics, whether in government appointments or the use of force against intransigent leaders. Orientalism validates the West’s capacity to resolve many of the supposed challenges of politics in the Global South. Second, Orientalist thought has a tendency to accentuate the West’s imperial victories, no matter their significance. Although Orientalist thought is rooted in an idealized vision of the West, this tradition inflates a seemingly minor success into confirmation of the West’s inherent righteousness. This pattern was illustrated after the defeat of the Taliban. Neoconservatives in the Bush administration heralded the US military for combining its ‘sophisticated’ technology with the ‘rudimentary’ Northern Alliance to defeat nothing less than the ‘cause of evil in the world’ (Rumsfeld, 2002: 3). This aggrandizing effect helps Westerns leaders sustain their imperial missions, even in the most dubious of circumstances. Finally, Orientalism defuses some of the inherent liabilities posed by the West’s use of force. Amid the uncertainty, confusion and chaos of war, Western observers often turn to Orientalism’s flexible narrative to help preserve Western supremacy. The utility of this pattern was evident at the Battle of Mazar-e-Sharif. US officials deflected the risks of the Northern Alliance’s brutality by stressing before US voters and international observers the unfamiliar and exotic qualities of their Afghan allies. Romantic accounts of ill-equipped horseback warriors distracted observers from the complete story of the battlefield and suggested that their form of warfare was too foreign to be controlled. Orientalism helps the West try to claim greater influence over how the battlefield is understood. This section argued that the continued existence of the violent Afghan ‘Other’ construct is suggestive of the lasting influence of Orientalist thought in Western relations with the Global South. As demonstrated in this study of Afghanistan, this ideology of difference has lasting consequences for how the West understands, justifies and expands its influence in the Global South, particularly through the use of force. This means scholars are left not only to identify the influence of Orientalist thought throughout the history of Western political thought about the Global South, but also to assess how it shapes imperial social relations. Conclusion This article began by noting the peculiar place of ‘Afghan warlords’ in contemporary debates about Afghanistan. These armed actors have been simultaneously condemned as some of the most abhorrent figures in Afghan politics, on the one hand, and valorized as essential international allies or recast as seemingly innocuous ‘local commanders’, on the other. The article argued that the contested nature of this label stems from an older pattern in Anglo-American thought to construct a violent Afghan ‘Other’ that departs from, but also confirms, purportedly essential features of the West. Similar to British descriptions of the ‘Afghan people’ during the First Anglo-Afghan War, contemporary US conceptions of ‘Afghan warlords’ are distinguished by this cultural construct’s Orientalist archetypes about the violent and treacherous nature of Afghans and the superiority of Western modes of warfare. The longevity of this construct can be traced back, in large part, to the lasting influence of Orientalist thought in Western violent interventions in the Global South. In contemporary times, Orientalist conceptions of ‘Afghan warlords’ have simultaneously deflected attention away from liabilities in the battlefield, affirmed US military supremacy and validated an increasingly troubled intervention in Afghan politics. This suggests that greater scrutiny should be paid to the origins of evocative labels and how imperial powers employ them to sustain their influence across the Global South.

**Gender relations are a prime driver of war/root cause**

**Cockburn 10** [Cynthia, visiting prof in the Dept of Sociology at the City University London and honorary prof at the Center for the Study of Women and Gender at U Warwick, "Gender Relations as Causal in Militarization and War" International Feminist Journal of Politics 12.2 Jun]

By contrast, patriarchal gender relations as a cause of war, I would suggest, must often fall in the 'root cause' or 'favourable conditions' category, and here we have to pay attention to culture. With the exception of the abduction of the mythical Helen of Troy (and the spurious attempt of George W. and Laura Bush to portray the invasion of Afghanistan in 2001 as a war to save Afghan women from repression by the Taliban) wars are not fought 'for' gender issues in the way they are sometimes fought 'for' oil resources, or 'for' national autonomy. Instead, they foster militarism and militarization. They make war thinkable. They make peace difficult to sustain. As noted above, women close to militarization and war are observant of cultures, cultures as they manifest themselves in societies before, in and after armed conflicts. If we think of the war system as having a cyclical or spiralling life, as a continuum over time, proceeding from the discourse of militarist ideology, through material investment in militarization, aggressive policy-making, outbreaks of war, short firefights, prolonged stalemates, ceasefires, demobilization, periods of provisional peace, anxieties about security, rearmament and so on, and if we look closely at the social relations in which individuals and groups enact these various steps, that is where it is possible to see gender relations at work, pushing the wheel around. The above account of a feminist standpoint, generating an understanding of war that contradicts the hegemonic view, is derived first and foremost from my empirical research among women's antiwar organizations and networks. But, closely involved with that movement, there is a world of feminist scholars (men as well as women) who have striven over the past three decades to articulate in a growing library of written work in the understandings arising among women war survivors and activists. Many collected editions bring together research and reporting from a range of different countries and periods (for instance, Cooke and Woollacott 1993; Lorentzen and Turpin 1998; Moser and Clark 2001; Giles and Hyndman 2004). Research-based monographs show the influence of gender relations at points along the continuum of militarization and war. Robert Dean (201), for instance, in his study of the Kennedy administration taking the USA to war in Vietnam, shows masculinism at work in preparation for war. Susan Jeffords (1989) in The Remasculinization of America, shows, through an analysis of films and novels, national efforts to salvage masculine pride after such a defeat. Many firsthand accounts show in painful detail how, in military training, patriarchal masculinity lends itself to exploitation for war-fighting, and how violence is eroticized in masculine fantasy (Theweleit 1987). Together such studies articulate the feminist perception that patriarchal gender relations are among the 'root causes' of militarism and war.

**1AC View LAW and REVIEW not CULTURE as the Issue – this precludes the possibility of questioning CULTURE which is key**

**Margulies and Metcalf 11** [\*Joseph Margulies is a Clinical Professor, Northwestern University School of Law. He was counsel of record for the petitioners in Rasul v. Bush and Munaf v. Geren. He now is counsel of record for Abu Zubaydah, for whose torture (termed harsh interrogation by some) Bush Administration officials John Yoo and Jay Bybee wrote authorizing legal opinions. Earlier versions of this paper were presented at workshops at the American Bar Foundation and the 2010 Law and Society Association Conference in Chicago. Margulies expresses his thanks in particular to Sid Tarrow, Aziz Huq, Baher Azmy, Hadi Nicholas Deeb, Beth Mertz, Bonnie Honig, and Vicki Jackson. \*\*Hope Metcalf is a Lecturer, Yale Law School. Metcalf is co-counsel for the plaintiffs/petitioners in Padilla v. Rumsfeld, Padilla v. Yoo, Jeppesen v. Mohammed, and Maqaleh v. Obama. She has written numerous amicus briefs in support of petitioners in suits against the government arising out of counterterrorism policies, including in Munaf v. Geren and Boumediene v. Bush. Metcalf expresses her thanks to Muneer Ahmad, Stella Burch Elias, Margot Mendelson, Jean Koh Peters, and Judith Resnik for their feedback, as well as to co-teachers Jonathan Freiman, Ramzi Kassem, Harold Hongju Koh and Michael Wishnie, whose dedication to clients, students and justice continues to inspire.] “Terrorizing Academia” http://www.swlaw.edu/pdfs/jle/jle603jmarguilies.pdf

But by framing the Bush Administration’s response as the latest in a series of regrettable but temporary deviations from a hypothesized liberal norm, the legal academy ignored the more persistent, and decidedly illiberal, authoritarian tendency in American thought to demonize communal “others” during moments of perceived threat. Viewed in this light, what the dominant narrative identified as a brief departure caused by a military crisis is more accurately seen as part of a recurring process of intense stigmatization tied to periods of social upheaval, of which war and its accompanying repressions are simply representative (and particularly acute) illustrations. It is worth recalling, for instance, that the heyday of the Ku Klux Klan in this country, when the organization could claim upwards of 3 million members, was the early-1920s, and that the period of greatest Klan expansion began in the summer of 1920, almost immediately after the nation had “recovered” from the Red Scare of 1919–20.7 Klan activity during this period, unlike its earlier and later iterations, focused mainly on the scourge of the immigrant Jew and Catholic, and flowed effortlessly from the anti-alien, anti-radical hysteria of the Red Scare. Yet **this period is almost entirely unaccounted for in the dominant post-9/11 narrative of deviation and redemption**, which in most versions glides seamlessly from the madness of the Red Scare to the internment of the Japanese during World War II.8

**And because we were studying the elephant with the wrong end of the telescope, we came to a flawed understanding of the beast**. In Part IV, we argue that the interventionists and unilateralists came to an incomplete understanding by focusing almost exclusively on what Stuart Scheingold called “the myth of rights”—the belief that if we can identify, elaborate, and secure judicial recognition of the legal “right,” political structures and policies will adapt their behavior to the requirements of the law and change will follow more or less automatically.9 Scholars struggled to define the relationship between law and security primarily through exploration of structural10 and procedural questions, and, to a lesser extent, to substantive rights. And they examined the almost limitless number of subsidiary questions clustered within these issues. Questions about the right to habeas review, for instance, generated a great deal of scholarship about the handful of World War II-era cases that the Bush Administration relied upon, including most prominently Johnson v. Eisentrager and Ex Parte Quirin. 11

Regardless of political viewpoint, a common notion among most unilateralist and interventionist scholars was that when law legitimized or delegitimized a particular policy, this would have a direct and observable effect on actual behavior. The premise of this scholarship, in other words, was that policies “struck down” by the courts, or credibly condemned as lawless by the academy, would inevitably be changed—and that this should be the focus of reform efforts. Even when disagreement existed about the substance of rights or even which branch should decide their parameters, **it reflected shared acceptance of the primacy of law**, often **to the exclusion of underlying social or political dynamics**. Eric Posner and Adrian Vermeule, for instance, may have thought, unlike the great majority of their colleagues, that the torture memo was “standard fare.”12 But their position nonetheless accepted the notion that if the prisoners had a legal right to be treated otherwise, then the torture memo authorized illegal behavior and must be given no effect.13

**Recent developments, however, cast doubt on two grounding ideas** of interventionist and unilateralist scholarship—viz., that post-9/11 policies were best explained as responses to a national crisis (and therefore limited in time and scope), and that the problem was essentially legal (and therefore responsive to condemnation by the judiciary and legal academy). **One might have** reasonably **predicted that in the wake of a string of Supreme Court decisions limiting executive power**, apparently widespread and bipartisan support for the closure of Guantánamo during the 2008 presidential campaign, and the election of President Barack Obama, which itself heralded a series of executive orders that attempted to dismantle many Bush-era policies, **the nation would be “returning” to a period of respect for individual rights and the rule of law. Yet the period following Obama’s election has been marked by an increasingly retributive and venomous narrative surrounding Islam and national security**. Precisely **when the dominant narrative would have predicted change and redemption, we have seen retreat and retrenchment**.

This conundrum is not adequately addressed by dominant strands of post-9/11 legal scholarship. In retrospect, **it is surprising that much post-9/11 scholarship appears to have set aside critical lessons from previous decades as to the relationship among law, society and politics**.14 Many scholars have long argued in other contexts that rights—or at least the experience of rights—are subject to political and social constraints, particularly for groups subject to historic marginalization. Rather than self-executing, rights are better viewed as contingent political resources, capable of mobilizing public sentiment and generating social expectations.15

**From that view, a victory in Rasul or Boumediene no more guaranteed that prisoners at Guantánamo would enjoy the right to habeas corpus than a victory in Brown v. Board**16 **guaranteed that** schools in **the South would be desegregated**.17 Rasul and Boumediene, therefore, should be seen as part (and probably only a small part) of a varied and complex collection of events, including the fiasco in Iraq, the scandal at the Abu Ghraib prison, and the use of warrantless wiretaps, as well as seemingly unrelated episodes like the official response to Hurricane Katrina. These and other events during

 the Bush years merged to give rise to a powerful social narrative critiquing an administration committed to lawlessness, content with incompetence, and engaged in behavior that was contrary to perceived “American values.”18 Yet the very success of this narrative, culminating in the election of Barack Obama in 2008, produced quiescence on the Left, even as it stimulated massive opposition on the Right. The result has been the emergence of a counter-narrative about national security that has produced a vigorous social backlash such that most of the Bush-era policies will continue largely unchanged, at least for the foreseeable future.19

Just as we see a widening gap between judicial recognition of rights in the abstract and the observation of those rights as a matter of fact, there appears to be an emerging dominance of proceduralist approaches, which take as a given that rights dissolve under political pressure, and, thus, are best protected by basic procedural measures. But that stance falls short in its seeming readiness to trade away rights in the face of political tension. **First**, it accepts the tropes du jour surrounding radical Islam—namely, that it is a unique, and uniquely apocalyptic, threat to U.S. security. In this, proceduralists do not pay adequate heed to the lessons of American history and sociology. And **second**, it endorses too easily the idea that procedural and structural protections will protect against substantive injustice in the face of popular and/or political demands for an outcome-determinative system that cannot tolerate acquittals. Procedures only provide protection, however, if there is sufficient political support for the underlying right. Since the premise of the proceduralist scholarship is that such support does not exist, it is folly to expect the political branches to create meaningful and robust protections. **In short, a witch hunt does not become less a mockery of justice when the accused is given the right to confront witnesses. And a separate system (especially when designed for demonized “others,” such as Muslims) cannot, by definition, be equal.**

**Gendered basis for drone power causes backlash**

**De Volo 13** [Lorraine Bayard de Volo Associate Professor University of Colorado Boulder] Unmanned?: Drones and the Revolution in Gender-Military Affairs http://www.ecpg-barcelona.com/sites/default/files/Ppr-Unmanned-ECPG.pdf

At the 2010 White House Correspondents’ Dinner, Obama told a not-so-funny joke about his command of drone strikes as he introduced the Jonas Brothers, a pop band. In mock seriousness, he warned the band members to steer clear of his daughters: “Sasha and Malia are huge fans, but boys, don’t get any ideas. Two words for you: Predator drones. You’ll never see it coming.” The logic of patriarchal masculine protection in national security is rarely expressed so literally, but the anecdote is faithful to the general narrative (Young 2003). In brief, the patriarch (national leader or state) assumes protection of the feminized weak (figurative but not necessarily embodied women and children at home or abroad) in the face of a menacing or predatory masculine threat.

However, one person’s masculine predator is another’s masculine protector. Not only is U.S. drone power experienced by many abroad as the menacing predator against which one needs protection, but this is arguably counterproductive for U.S. national security. Becker and Shane attest that drones have become “a provocative symbol of American power” (Becker and Shane 2012). A prominent example is the U.S. Justice Department White Paper released in 2013, declaring that the president will not be constrained by national sovereignty, as a drone strike will proceed “with the consent of the host nation’s government or after a determination that the host nation is unable or unwilling to suppress the threat” (Department of Justice. n.d.). That is, drone strikes will proceed with or without the host nation’s consent. Pakistan and Yemen, unable to protect their own borders against penetration by U.S. drones or Al Qaeda, are demasculinized in the process. Wishing to avoid domestic acknowledgement of its weakened position, Pakistan secretly gave conditional permission for drone strikes in the FATA region. There is a paternalistic expression in rescuing feminized regions of the world. On the one hand, the U.S. as masculinist protector expressed through predators and reapers directs U.S. public attention away from civilian terrain bloodied by drone strikes(Shaw & Akhter 2012, 1502). On the other hand, demasculinization creates conditions for resentment and resistance abroad.

The high-tech and relatively accurate armed drones emphasize U.S. toughness to other nations and non-state militaries. The U.S. military has assigned unusually bellicose names and imagery to its drones, most notably Predator and Reaper. The U.S. Navy Program Executive Office’s emblem for its Unmanned Aviation and Strike Weapons program features the Grim Reaper, replete with scythe and glowing red eyes. Though surveillance is a primary purpose even for drones with strike capability, the logo the drone names emphasizes their lethal capacities. Such forthright promotion of a weapons system’s terrorizing qualities is instructive. USAFChief of Staff General Michael Moseley explained that, “[‘Reaper’] captures the lethal nature of this new weapon system… We’ve moved from using UAVs primarily in intelligence, surveillance, and reconnaissance roles before Operation Iraqi Freedom, to a true hunter-killer role” (U.S. Air Force 2006). The Reaper’s predecessor, the Predator, is similarly menacing, as the name itself implies that this weapon machine preys on humans.

Names

 given to past U.S. weapon systems range from animals and insects (for example, the unmenacing Hummingbird and Terrier but also the lethal Scorpion and Cobra), to weapons of yesteryear (Tomahawk and Dagger), to innocuous names for weapons of mass destruction (Peacekeeper and Honest John). Not since the WWII-era aircrafts Avenger and Invader have weapon systems matched this level of bellicosity. Charles Kauffman (1989, 273) explained, “The names we give weapons are an index to our perceptions of threats posed by our enemies, the conditions under which we are willing to use violence, and the fearsomeness we attribute to its engines” (Kauffman 1989, 277). If the UAV names embody motives, the Predator and Reaper suggest confidence in the drone weapons ability to kill terrorists, dehumanizing them as preyed upon or reap-able. There is, I suggest, a sort of “natural order of things” produced through these names. A predator hunts and kills prey. There is a similar inevitability to the Grim Reaper’s work. The baldly lethal names for attack drones also signal unambiguously to a domestic political and military audience that these are not “just” surveillance drones, and the military has shifted into hunter-killer mode in UAV function. Military strategists and commentators increasingly call attention to the backlash engendered by drone warfare, that it “allows our opponents to cast our country as a distant, high-tech, amoral purveyor of death. It builds resentment, facilitates terrorist recruitment and alienates those we should seek to inspire” (Volker 2012). General Stanley McChrystal allowed that in some regions, drones are “hated on a visceral level” and contribute to a “perception of American arrogance” (Alexander 2013). Journalist David Rohde, held captive for seven months in 2008 in the tribal areas of Pakistan, concludes that “drone strikes have become … too much associated with the heavyhanded use of American power. … From the ground, drones are terrifying weapons that can be heard circling overhead for hours at a time. They are a potent, unnerving symbol of unchecked American power” (Rohde 2012). For example, after an attack that killed two local leaders who had been resisting Al Qaeda, infuriated villagers protested: “[S]ome …say there was an upwelling of support for Al Qaeda, because such a move is seen as the only way to retaliate against the United States” (Worth, Mazzetti, and Shane 2013). There is an abstract masculine logic then, such that drone warfare can be perceived on the ground as a particularly ruthless expression of predatory masculinity, which in turn can hail and legitimate a protective masculine response.

Idealized masculinity is often validated and valorized in war in the name of protecting feminized others threatened by a predatory masculine (Spivak 1988; Abu Lughod 2002; Young 2003). But drone warfare presents a few wrinkles in this logic, as the U.S. pursuit of war via drones can all-too-readily be represented not as the protector but the predator. True to its name, within its strike zone abroad, the Predator drone (and other drones with strike capabilities) projects a predatory masculinity, a powerful and abusive masculine that calls forth a masculine protector. Arguably, this enhances Al Qaeda’s ability to represent itself as the protector against predatory masculinity of the Predators and Reapers and the U.S. administration calling the shots. This helps us better understand the blowback of drones on the local population, bolstering those arguments that UAVs are counter-productive in that they serve to enhance Al-Qaeda and Taliban recruitment efforts.

**The affirmative cedes the political – using the political to end the war on terrorism allows the left wing to think all threats are over and forces the right wing to take over**

**Margulies and Metcalf 11** [\*Joseph Margulies is a Clinical Professor, Northwestern University School of Law. He was counsel of record for the petitioners in Rasul v. Bush and Munaf v. Geren. He now is counsel of record for Abu Zubaydah, for whose torture (termed harsh interrogation by some) Bush Administration officials John Yoo and Jay Bybee wrote authorizing legal opinions. Earlier versions of this paper were presented at workshops at the American Bar Foundation and the 2010 Law and Society Association Conference in Chicago. Margulies expresses his thanks in particular to Sid Tarrow, Aziz Huq, Baher Azmy, Hadi Nicholas Deeb, Beth Mertz, Bonnie Honig, and Vicki Jackson. \*\*Hope Metcalf is a Lecturer, Yale Law School. Metcalf is co-counsel for the plaintiffs/petitioners in Padilla v. Rumsfeld, Padilla v. Yoo, Jeppesen v. Mohammed, and Maqaleh v. Obama. She has written numerous amicus briefs in support of petitioners in suits against the government arising out of counterterrorism policies, including in Munaf v. Geren and Boumediene v. Bush. Metcalf expresses her thanks to Muneer Ahmad, Stella Burch Elias, Margot Mendelson, Jean Koh Peters, and Judith Resnik for their feedback, as well as to co-teachers Jonathan Freiman, Ramzi Kassem, Harold Hongju Koh and Michael Wishnie, whose dedication to clients, students and justice continues to inspire.] “Terrorizing Academia” http://www.swlaw.edu/pdfs/jle/jle603jmarguilies.pdf

President Obama’s speech on national security May 21, 2009 at the National Archives is a case study in symbolic reassurance. As a number of observers have noted, despite Obama’s campaign promises, his post-9/11 counter-terror policies are most striking for their similarity to Bush’s, rather than their differences, which are mostly modest and incremental.130 Yet in his only major speech on national security, Obama—invoking the mythical power of the Constitution, the Declaration of Independence, and the Bill of Rights— said the Bush Administration “went off course” when it made a series of “hasty decisions” that “established an ad hoc legal approach for fighting terrorism… that failed to rely on our legal traditions and time-tested institutions, and that failed to use our values as a compass.” To correct these mistakes, Obama said he had made “dramatic changes” that represented “a new direction from the last eight years,” and that his approach to terrorism, unlike that of his predecessor, was faithful to “our most fundamental values…[to] liberty and justice in this country, and a light that shines for all who seek freedom, fairness, equality, and dignity around the world.” These changes, he vowed, would allow us to resume our timeless “American journey…toward a more perfect union.”131

This rhetoric built on both the anti-Bush narrative of indifference to the rule of law and Obama’s campaign promise of change. The speech left a powerful impression that the Obama Administration had reclaimed America’s moral standing, ending the abuses of a shameful past, and returning to our foundational principles. At least for those who are inclined to look to Obama as a trusted voice, his speech provided all the reassurance they could possibly want that change had finally come, and that the democratic process worked. Obama had reaffirmed their vision of American identity as a law-abiding and honorable nation, committed to a set of ideals that had been cast aside in the madness after 9/11. Lost in the comforting rhetoric, however, were the policy details, which included—for the first time in U.S. history—support for a preventive detention regime, something even the Bush Administration had not proposed.132

Among opponents to Bush-era policies, **Obama’s remarks produced quiescence and calm, a sense that the nation had finally “recovered” and that attention could safely be devoted to more pressing matters like the economy. But immediately after Obama’s speech, the cameras shifted to former Vice President Cheney, who offered a vigorous defense of Bush-era counter-terror policies, including in particular Guantánamo and the use of “enhanced interrogation tech**

**niques**.” Relying on his position as an insider with presumed access to secrets unknown to most Americans, Cheney hinted darkly of the dangers that would befall Americans now that President Obama was carving holes in the security net carefully woven by the Bush Administration.133 Republicans have hammered on this theme throughout Obama’s Administration (just as, it must be acknowledged, Democrats hammered on the theme of lawlessness and incompetence throughout the Bush Administration).134

Both speeches presented powerful narratives that appealed to particular audiences. But where Obama’s speech produced quiescence, Cheney’s produced the far more potent sense of threat. Once again, the nation was dangerously at risk and no more pressing matter faced the country than to thwart Obama’s recklessness.135 In reflecting on the relative impact of these two speeches, it is worth recalling the nature of counter-terror policy in the American imagination. It exists only as a collection of evocative images and ideas—black sites, torture, Guantánamo, terrorists—all of which are entwined with the most powerful political symbols in American life: race, national security, and the most elusive of all, “American values.” This intimate connection not only to our perceived safety but to our most potent national symbols means that Americans can be roused to attach inordinate significance to the debates, creating the appearance of a cultural consensus. But at the same time, their attachments will be superficial and easily changed, perhaps with bewildering rapidity.136

For the moment, it seems that the success of Obama’s narrative produced quiescence on the Left and alarm on the Right. **Conservatives were invigorated and mobilized just as the Left was abandoning the public square**. The result has been a counter-mobilization against Obama and his national security policies that was much more vitriolic and effective than anything during the campaign.137

# 1NR T Cards

#### The aff isn’t one of those five. Which means they explode the topic—there are a CRAP LOAD of actions they can take that aren’t Topical—its important to be precise and clear with questions of authority.

KAISER 84—the Official Specialist in American National Government, Congressional Research Service, the Library of Congress [Frederick M. Kaiser, Congressional Control of Executive Actions in the Aftermath of the Chadha Decision, 6 Admin. L. Rev. 239 (1984)]

V. OTHER CONGRESSIONAL ACTIONS

The Supreme Court's ruling in Chadha (and implicitly, the summary affirmances that followed) found the legislative veto unconstitutional because it violated the Presentment Clauses of the Constitution, a holding that presumably invalidates all types of statutory congressional vetoes (i.e., those relying exclusively on Congress). Since that time, the House Rules Committee, which "has always had reservations about 'legislative veto' laws ... " has established a policy of returning bills that contain such provisions to the authorizing committees for redrafting.' 3 Yet certain legislative veto provisions may remain in force; and some may elicit compliance, because it is in the executive's own vested interest to do so. Moreover, as described above, certain types of congressional vetoes, especially committee vetoes in appropriations acts, have been ratified statutorily since Chadha. These possibilities notwithstanding, Congress still has other options for controlling specific executive actions, in addition to the statutory and nonstatutory mechanisms detailed above. What follows is neither a comprehensive listing of alternatives-although they range from major statutory initiatives to House rules changes-nor a ranking of them.

As the Court noted in Chadha, Congress has been inventive in developing its powers; -35 and the perceived benefit or feasibility of any particular approach depends upon many different factors that cannot be explored in depth here.

One often-cited remedy, however, is likely to languish or be of only marginal utility, because of practical and philosophical concerns underlying its assumptions. That is the all-purpose prescription that the establishing statutory authority for agencies and programs should be unambiguous, precisely and narrowly defined, and with clear, straightforward objectives. Otherwise, Congress, lacking will and resolve, so the reasoning goes, has abdicated its lawmaking responsibilities by "passing the buck to the executive. .. 136

The noble intent behind this solution, however, minimizes the reality behind contemporary laws: the changing nature and characteristics of political parties, the frequent split party control at the national level (in all but one of the past four Presidencies), the increase in number and political sophistication of organized interests and so-called "single issue" groups, the complexity and intense controversy surrounding many current issues, the truncated distribution of governmental authority under the Constitution, and the internal competing power structures within Congress and the executive. All of these conspire against such an over-arching solution and in favor of broad delegations of authority, vague language, and generalized statements of purpose in public laws. It may also be that proponents of such comprehensive solutions somewhat naively recall earlier periods that exhibited clear and precise legislation--e.g., the 1930 Smoot-Hawley Tariff or that from the 1880s, which Woodrow Wilson described as "Congressional Government" 37-while forgetting the serious problems of those systems and the criticisms of specific pieces of legislation. Finally, some may uncritically assume that those previous systems could be resurrected in the contemporary era.

The operating premise is that vague and broad delegations of statutory authority will continue as the rule, for a variety of reasons. Therefore, Congress will remain dependent upon a variety of means to nullify or neutralize specific executive actions, as it has in the past. But now Congress has the added incentive of replacing congressional vetoes by some of the following methods:

Formal legislation may be required before commencement of specific executive actions. Statutes might be drafted to incorporate a requirement that certain future actions shall not commence unless and until a regular bill, possibly under expedited procedures, is approved by both Houses of Congress and then signed by the President or his veto is overriden. Many of the same pro and con arguments applied to joint resolutions of approval apply here also.

Regular and frequent authorization periods may be mandated for agencies that are not already under a short cycle, thus improving Congress' ability to review, monitor, and clear executive actions, by providing more numerous opportunities for periodic review and leverage to ensure agency compliance. The House, in the immediate aftermath of the Chadha decision, did this when it reduced the CPSC reauthorization period from five to three years.' 38

Official "sunset" requirements, where a program, agency, or authority terminates after a specified time unless it is expressly reauthorized, may be advanced as control techniques. In fact, a "super sunset" bill, as termed by its sponsor, has been introduced in the House in the 98th Congress; it would repeal all authority previously delegated to the executive with a legislative veto after 180 days, unless Congress specifically reinstates such authority. 13 9

Time limitations on executive actions themselves might also be explored. The War Powers Resolution, as a prominent example, imposes a time limit on the commitment of U.S. Armed Forces into hostilities abroad, unless Congress has specifically authorized it to continue. 14

The controversy and political difficulties in operationalizing such authority regarding Lebanon (in contrast to Grenada), however, demonstrates its weaknesses when applied across-the-board to foreign military ventures. 4 ' There, the President's own constitutional authority expressly exceeds that granted by statute and his political power, at least in the short-run, exceeds that of Congress. But in other areas, such as regulations from independent commissions or contracting for specific construction or maintenance projects, Congress may impose time limits without encountering the same challenges.

Authorizations for less than a fiscal year are a variation of the same theme that "sunset" requirements and regular authorization periods score. In this case, the time permitted for a specific activity is shortened and the executive must seek supplemental authority from Congress during the fiscal year, if the activity is to continue.

The House Select Committee on Intelligence has held hearings on proposals, introduced by Rep. Fowler, that would halt funding for covert operations at a specified dollar amount without the express approval of both House and Senate Select Committees.'42 And the House and Senate, following the recommendation of the conferees from the Select Committees on Intelligence, approved funding for CIA covert operations in Nicaragua for less than the fiscal year (if such expenditures remain at their current rate). This limitation in the FY 1984 Intelligence Authorization, by setting an absolute ceiling and prohibiting transfers from other accounts, has compelled the Agency to seek congressional approval for additional amounts to continue its activities. 'I

House Rule XXI was changed in the 98th Congress to make it more difficult to offer floor amendments to appropriations. 4 4 If they are perceived as overly restrictive, the current rules might be eased or removed in order to facilitate appropriations limitations, via floor amendments, to check executive actions.

Other House and Senate rules affecting standing committee powers might be amended to preclude appropriating funds for a specific executive action unless and until the authorizing committee has expressly approved the planned action itself or a specified related contingency. The prior approval requirement could be under expedited procedures. Despite having the evident impact of a legislative veto, this change would directly affect only the internal Chamber Rules and, arguably, would be immune from judicial scrutiny.

Private laws, despite their "onerous burdens" (as characterized by the majority opinion in Chadha), 4 5 might be reactivated to control some deportation cases, as they are now in other immigration matters and for claims relief.

Sense of Congress resolutions-non-binding concurrent or simple resolutions that indicate a sense of Congress or of a single House--can be used to express a congressional opinion or view about a (proposed) specific executive action. In so doing, they also alert officials to the possibility of future legislative sanctions, if that sentiment is violated, but have no legal effect themselves.

Oversight powers in statute or in chamber rules may be modified to strengthen congressional control or at least provide further opportunity for it. In addition to the standard oversight powers that congressional committees now possess, their authority could be amended to require that committees be kept "fully and currently informed," even with regard to "significant anticipated activities," by heads of agencies under their jurisdiction. This would enhance their ability to monitor planned executive actions, by granting standing committees the same authority that the Select Committees on Intelligence hold excliisively. (Committees on their own, of course, may expand the consultation or prior notification directives in their reports on bills; and although these would not be legally binding on an agency, they may still elicit compliance.)

Select study committees or subcommittees (in House Government Operations and Senate Governmental Affairs) may be established jointly or in each House to be responsible for monitoring, reviewing, and corn- menting upon a range of (proposed) executive actions, such as "significant" regulations or foreign arms sales above a threshold dollar amount.

In so doing, the study panel could conduct oversight of executive actions under a specific and express mandate, similar to the "vigilant oversight" directive of the Select Committees on Intelligence. Since the panel's membership would not be identical to the appropriating or authorizing committees which have jurisdiction, it would not have previously sanctioned the powers, authority, duties, or officials (as Senate authorizing committees do for Presidential nominees) of the agencies whose actions they would oversee. By commenting upon proposed rules or regulations, for instance, the panel could alert Congress about suspect or objectionable ones and suggest options for corrective legislation, similar to a proposal that the House Rules Committee had advanced (in lieu of an across-the-board legislative veto).' 6

The Senate confirmation power, frequently criticized for being perfunctory, may be used to solicit pledges from Presidential nominees with regard to taking (or not taking) specific action and notifying or consulting with congressional committees in the future.

The likelihood of this approach being adopted by committees as a normal part of confirmation or being acceptable to the President, however, is remote. Recently, for instance, a number of Senators sought to require that William P. Clark, the successor to Interior Secretary Watt, pledge to change specified Department policies, prior to his confirmation. The attempt was made through an amendment to the FY 1984 Supplemental Appropriations Act, a day before Clark's scheduled confirmation vote, but was tabled, 48 to 42. In an analogous case, a Senate Appropriations subcommittee tried to obtain a commitment from the new head of the Agency for International Development to clear future plans about diverting economic aid to military purposes. The Administrator, intent on improving relations with Congress, was agreeable. Since the President and the Justice Department were not, however, the informal clearance procedure was abandoned and replaced by a formal provision in a later appropriations act.'47

Despite the evident disincentives against specific pledges from nominees, the confirmation hearings of EPA Administrator Ruckels- haus in 1983, " s and of FBI Director Webster in 1978,'19 demonstrate that there are circumstances and conditions, albeit rare, that permit committees to be insistent about obtaining certain commitments from them.

Increased judicial involvement may serve as a means of improving controls over executive action indirectly. Congress may enact legislation to ease standing to bring civil suits against an official action, grant broader review powers to Federal courts, or, in narrow areas, even establish new lower courts with the authority to rule directly on requests for planned or proposed action.

Some comprehensive regulatory reform bills include new judicial review procedures, as with the so-called Bumpers' Amendment;' 5 and the Foreign Intelligence Surveillance Court, operating under a 1978 enactment, is empowered to issue (or withhold) warrants for certain electronic surveillance operations requested by the Attorney General. '

Offices of inspector general may be given statutory authority to halt certain executive actions or projects and indirectly implement congressionally determined controls. Although none of the current 18 statutory IGs possesses such power, a former inspector general (for Foreign Assistance) did hold "authority to suspend all or any part of any project or operation (but not a country program)" that the office was inspecting, auditing, or reviewing.' 51

#### PLUS there are multiple NON STATUTORY means of restricting—they also justify those.

KAISER 84—the Official Specialist in American National Government, Congressional Research Service, the Library of Congress [Frederick M. Kaiser, Congressional Control of Executive Actions in the Aftermath of the Chadha Decision, 6 Admin. L. Rev. 239 (1984)]

IV. NONSTATUTORY TECHNIQUES

Congress possesses a panoply of nonstatutory techniques, overlapping with its oversight powers, that can be used to control executive actions. And as with statutory devices, these nonstatutory mechanisms of control vary in political potency and in the ease with which they may be put into operation. Although their impact is indirect, several studies have demonstrated that such instruments can be effective, if used diligently and under conducive circumstances."' Yet because of their own informal operation and because they are likely to occur along with other influences, it is often difficult, if not impossible, to assess their specific impact, or, on occasion, to isolate them from other factors. One nonstatutory device for controlling executive action is the committee report accompanying legislation, a relationship that lends credibility and significance to the informal technique. Regarding that credibility, at least so far as the legislative history of an act is concerned, Associate Supreme Court Justice Jackson had urged that the Court "should not go beyond Committee reports, which presumably are well considered and carefully prepared.""'7 Beyond this, they may contain directives that represent a committee's majority opinion and provide guidance and expectations for future executive actions under the legislation. Even though these directives do not necessarily obligate an agency to act, in most instances, they carry the imprimatur of an important congressional unit-the committee which has authorizing or appropriating jurisdiction for the agency-that is politically risky to ignore.

The most assertive and confident committee report statement is issued by the Senate Select Committee on Intelligence, which, like its House counterpart, issues two separate reports, a public and a classified one. Because of the Committee's unique powers and authorizing responsibilities (for the secret intelligence community budget), it can insist that "the classified report.., will have the full force of any Senate Report, and that the Intelligence Community will fully and completely comply with the recommendation, guidelines, directions, and limitations contained therein."'' 8 Since the details of the intelligence budget are not publicly disclosed, the classified report to the annual authorization takes on an added significance. It is the equivalent of the act itself and is expressly referred to in the authorization statute.

Appropriations committee reports regularly incorporate a number of urgings, directives, and expectations for agency action. A recent House Appropriations report, on the FY 1984 energy and water development appropriations, contains at least seven specific directives, instructions, and "concerns" for which action is advised. Included is the following illustration of this type of informal pressure on an agency: the Committee "directs the NRC to report" about when it expects to take action on a particular rule, promulgation of which the "Committee considers ... to be of highest priority.""'

Where committee directives are ignored or intentionally violated by an agency, this may invite more direct checks in the future. For example, in the mid-i 970s, the House Appropriations Committee had been critical of OSHA enforcement agents, especially their inspections of "small businesses and agricultural enterprises," and had cautioned the agency to "make every effort to insure that compliance officers... are equipped with a sufficient degree of expertise and competency in the activities of the establishments which they are undertaking to inspect."'2M Despite this implicit warning, the complaints about OSHA continued. A short while later, the Committee and Congress found it advisable to exempt agricultural operations with ten or fewer employees-- from OSHA's jurisdiction and to prohibit it from assessing certain civil penalties.' 12

In a much earlier episode, a committee report helped to transform executive practices without resorting to legislative mandates. In 1842, the House Committee on Public Expenditures was especially harsh in its criticisms of the Revenue Cutter Service (a forerunner of the U.S. Coast Guard) and its direction. The Committee found the Service to be a "source of great and extravagant expenditure ... controlled by the Secretary of the Treasury, accountable to no one but him, extended at will by him .. ."122 That situation could have been remedied by statute. Instead, the Secretary, partially compelled by the condemnation, instituted several major reforms and reorganizations of the Service,"' and thereby staved off direct legislative changes.

Two interrelated, prominent nonstatutory checks on executive actions are committee oversight hearings and investigations, reinforced by the power to issue subpoenas. Criticisms about EPA's implementation of its "Superfund" for toxic waste cleanup, charges of political manipulation, and other objectionable practices brought about extensive hearings in 1982 and 1983 that, in part, have resulted in new administrators and some changes in policy direction. 24 So far, no new legislation modifying EPA authority or its Executive Branch status has been adopted. Whatever transformations have occurred in this archetypal executive-legislative confrontation have been due to nonstatutory devices, in concert, of course, with other political factors.

Highly visible, specialized investigations, sometimes conducted by a select committee, give further evidence that such oversight devices may have an impact on executive behavior, under certain circumstances. Investigations of the U.S. intelligence agencies by House and Senate select committees in 1975-1976 substantiated findings about abuses of authority, illegalities, and improper and unethical conduct. These investigations not only helped to justify new legal checks, as with the Foreign Intelligence Surveillance Act, and the creation of permanent Select Committees on Intelligence with legislative powers, but also have been credited with preventing or curtailing the recurrence of improper conduct.' 5

Informal techniques alone rarely produce an immediate, dramatic impact. More commonly, they must be exerted over a lengthy period of time, reinforced by similar efforts elsewhere in Congress, or used in league with new or modified statutes, if they are to be effective. The House Judiciary Committee, for example, has had little success in convincing Attorney General Smith to withdraw or suspend implementation of his domestic security guidelines (that revised a set issued in 1976 by Attorney General Levi). As a next step, the committee attached an amendment of the FY 1984Justice Authorization, in order "to send a message to the Department regarding the depth of its concern" about the new guidelines and so that a consultation and clarification process can be completed.' 26

Another informal technique with the potential for changing executive action is direct contact (outside committee activity) between members of Congress and executive officials, especially agency and bureau heads as well as Executive Office staff and the President himself. These numerous contacts may provide opportunity to advocate a position direcdy or to aid a group or organization in gaining access to executive decisionmakers.

As an example of the latter, the Reagan Administration abandoned a prospective change in a regulation governing access for handicapped individuals; according to press accounts, that decision followed a meeting between the White House Chief of Staff and representatives of affected organizations, a meeting that House Republican Leader Robert Michel helped to arrange.2 7 Illustrating direct contact, members of the Senate Governmental Affairs Committee have negotiated with the Office of Personnel Management, in order to modify OPM's proposed rules over federal salaries, promotions, and layoffs. Part of their ability to persuade OPM derives from their strategic location in Congress-as members of the committee with jurisdiction over the Office and including the assistant Senate majority leader-as well as their demonstrated legislative success in delaying implementation of earlier OPM rules in the matter.2 8 And in another recent case, HUD reportedly issued a "compromise" version of its rent-subsidy formula, because of "strong protests from congressional Democrats," among others.1

As with other informal techniques used to check executive actions, direct contacts have no guarantees. A concerted effort by GOP legislators, including Senator Dole and Republican Congresswomen, for instance, had failed to change the Reagan Administration's decision to file a brief with the Supreme Court over Federal funding to educational institutions that discriminate against women.'s

Nonstatutory legislative vetoes-informal devices whereby a congressional committee effectively clears proposed executive actions comprise yet another mechanism for controlling specific executive actions. Prominent in reprogramming of appropriations, these operate, as do their statutory counterparts, to bring executive actions into compliance with legislative objectives and have even been written into the operating manuals of some affected agencies."'

Studies or investigations by congressional staff, outside consultants, and congressional support agencies, especially the General Accounting Office (GAO), may themselves help to induce changes in administrative behavior, challenge questionable conduct, or provide substantiation and recommendations for further congressional efforts to check executive action. GAO reports, for instance, may cite administrative developments that have been initiated at its suggestion;' 32 or executive officials may identify GAO as a source for policy or administrative changes. In the latter, the Attorney General's 1976 guidelines for "Reporting on Civil Disorders" established new and more difficult procedures for FBI assistance to the Secret Service, especially in sharing intelligence; as a partialjustification for that change, the guidelines noted that a prior "draft report of the General Accounting Office indicates that very little information reported by the FBI is actually retained by Secret Service."'13

**Creation of the court will not restrict authority**

**McKelvey 11** - Executive Development Editor on the Editorial Board of the Vanderbilt Journal of Transnational Law [Benjamin McKelvey (JD Candidate @ Vanderbilt University), “Due Process Rights and the Targeted Killing of Suspected Terrorists: The Unconstitutional Scope of Executive Killing Power,” Vanderbilt Journal of Transnational Law, November, 2011, 44 Vand. J. Transnat'l L. 1353

FISA as an Applicable Model - FISA is an existing legislative model that is applicable both in¶ substance and structure.213 FISA was passed to resolve concerns over¶ civil liberties in the context of executive counterintelligence.214 It is therefore a legislative response to a set of issues analogous to the¶ constitutional problems of targeted killing.215 FISA also provides a structural model that could help solve the targeted killing¶ dilemma.216 The FISA court is an example of a congressionally created federal court with special jurisdiction over a sensitive¶ national security issue.217 Most importantly, FISA works. Over the¶ years, the FISA court has proven itself capable of handling a large¶ volume of warrant requests in a way that provides judicial screening without diminishing executive authority.218 Contrary to the DOJ’s¶ claims in Aulaqi , the FISA court proves that independent judicial oversight is institutionally capable of managing real-time executive¶ decisions that affect national security.219

#### Their supervising terms OR conditions for acting don’t meet.

COURT OF APPEALS 12 [STATE OF WASHINGTON DEPARTMENT OF HEALTH, THE COURT OF APPEALS OF THE STATE OF WASHINGTON, DIVISION I, RANDALL KINCHELOE Appellant. vs. Respondent, BRIEF OF APPELLANT, http://www.courts.wa.gov/content/Briefs/a01/686429%20Appellant%20Randall%20Kincheloe's.pdf]

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation. Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as; A limitation often imposed in a deed or lease respecting the use to which the property may be put.

The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as;

To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

#### Supreme Court ruling vital – until then the authority is in flux

Weida 2 (Jason Collins Weida, Candidate for Juris Doctor, University of Connecticut School of Law, 2005; Bachelor of Arts, Gettysburg College, 2002, “A Republic of Emergencies: Martial Law in American Jurisprudence,” Connecticut Law Review Summer, 2004 36 Conn. L. Rev. 1397)

Jackson's concurrence in Youngstown codified the Court's rationale in the cases of the Second World War into a mainstream doctrine for the review of emergency powers. n315 Indeed, Jackson directly cited Hirabayashi as illustrative of the first category of his relativity test. n316 The Court now has a lucid template by which to determine the constitutionality of specific emergency measures. n317 Those measures backed by express or implied congressional approval would be subject to the most deferential treatment. n318 Measures without statutory authorization, or in contravention thereof, would be highly suspect. n319 Thus, the analysis has reduced the [\*1432] successful implementation of emergency measures into a series of mechanical steps. First, the President must point to a congressional delegation authorizing the emergency measures. n320 Adequate authorization includes statutes which either prospectively or retroactively authorized the executive's specific measures. n321 Second, the executive must demonstrate that the emergency measures taken are within the scope of Congress's delegation found within the statutory language or legislative history. n322 Jackson noted that express or implied authority found in a delegation is sufficient. n323 Once the President meets steps one and two, the burden then shifts to the attacking party to persuade the Court that the emergency measures in question, personifying the federal sovereignty through the cooperation of the law-making and law-executing branches of government, are without the national government's constitutional power to effectuate. n324 That is an onerous burden because an action "by the President pursuant to an Act of Congress would be supported by the strongest of presumptions and the widest of latitude of judicial interpretation, and the burden of persuasion would rest heavily upon any who might attack it." n325 Failure to meet that burden elicits the judicial approval of the President's emergency measures. n326 [\*1433] 3. Contemporary Usage of the Youngstown Analysis Two circuit courts of appeals have recently used the Youngstown analysis to review the Bush Administration's detention policy in the war on terror following the September 11th attacks. n327 In a December, 2003 decision, Padilla v. Rumsfeld, the Court of Appeals for the Second Circuit granted the habeas petition of a detainee held by the Bush Administration for alleged affiliation with Al-Qaeda. n328 Using the Jackson concurrence as a template, the court of appeals examined Padilla's detention against the backdrop of congressional authorization. n329 The court placed Padilla's detention in Jackson's third category, because Congress's Non-Detention Act provides that "no citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress." n330 The government attempted to show congressional authorization in § 2(a) of the Joint Resolution passed immediately following September 11th, n331 which reads: That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons, he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons. n332 The court held that the Joint Resolution did not clearly and unmistakably [\*1434] authorize Padilla's detention under the circumstances. n333 This represents a departure from the standard Jackson annunciated in Youngstown that a statute need only expressly or impliedly authorize the emergency measure in question. n334 Nevertheless, the perceived inadequacy of the Joint Resolution triggered the default provision in the Non-Detention Act, and thus placement in Jackson's lowly third category. n335 After the government could not show that the executive possessed the inherent authority to detain Padilla without authorization from Congress, the court ordered Padilla's release. n336 The Court of Appeals for the Fourth Circuit similarly employed Jackson's template in the January, 2003 decision Hamdi v. Rumsfeld. n337 Unlike Padilla, the court of appeals did not explicitly mention Youngstown. n338 Yet Hamdi's rationale contains all the earmarks of Jackson's first category. n339 In Hamdi, the court rejected the habeas petition of a detainee similarly held by the Bush Administration for suspected ties to Al-Qaeda. n340 In construing the Joint Resolution, the court held that the Non-Detention Act was not intended "to overrule the longstanding rule that an armed and hostile American citizen captured on the battlefield during wartime may be treated like the enemy combatant that he is." n341 Congress reaffirmed that principle, by implication, in promulgating § 2(a) of the Joint Resolution. n342 Moreover, in tandem with that emergency provision, Congress made appropriations for such detentions in statutes like 10 U.S.C. § 956(5), for example. n343 Section 956(5) provides funding for detainees like Hamdi. n344 The court remarked that, "it is difficult if not impossible to understand how Congress could make appropriations for the detentions . . . without also authorizing [those] detentions in the first instance." n345 The production of congressional authorization, executed by the President within the scope of [\*1435] Congress's statutory language, placed the court in a deferential posture. n346 Hamdi was thereafter unable to persuade the court that the congressional-executive cooperation, representing the full panoply of the federal government's war powers, was outside the government's ability to constitutionally accomplish. n347 Thus, the court rejected Hamdi's habeas petition. n348 The crux of the Youngstown analysis, and a material difference between Padilla and Hamdi, is the standard a court employs to determine whether a particular statute authorizes the executive's specific emergency measures. The cases leading up to Youngstown each used different language to interpret a statute's grant of authority. Chase's concurrence in Milligan required that the Habeas Act "have relation to this military proceeding." n349 Quirin required that the petitioner's detention be "in conformity to" the laws of the United States. n350 The Hirabayashi Court held that the Act of March 21 contemplated and intended the curfew order. n351 The Court in Korematsu upheld exclusion because it had "a definite and close relationship to the prevention of espionage and sabotage," which were the goals behind the Act of March 21. n352 Duncan required that a delegation specifically state or infer the supplanting of the courts with military commissions. n353 Employing the highest standard, Endo required the Act of March 21, 1942, to clearly and unmistakably authorize post-exclusion detentions. n354 Each standard strongly influenced the outcome of each case. n355 Jackson's concurrence in Youngstown attempted to provide a uniform standard which would legitimize a President's emergency measure if Congress expressly or impliedly authorized the measure in question. n356 Despite Jackson's attempt at uniformity, a court's realistic degree of scrutiny is likely to fluctuate until the Supreme Court reaffirms or discards Jackson's standard in an on-point majority holding. For example, in Padilla, the Court of Appeals for the Second Circuit used the heightened clear and unmistakable standard from Endo. n357 Despite purporting to follow Jackson's concurrence throughout the opinion, n358 the court did not use the express or [\*1436] implied standard put forward by Youngstown. Faced with a high bar, the government failed to reach the standard imposed by the Court. n359 The government was more successful in Hamdi, where the Court of Appeals for the Fourth Circuit required only implied authorization. n360 The coming months may reconcile the divergent opinions. On January 9, 2004, the Supreme Court granted petitioner's request for certiorari in Hamdi. n361 Then, on February 20, 2004, the Court granted the government's request for certiorari in Padilla after an expedited review. n362 The summer of 2004 should tell whether the Court will provide a workable standard to construe executive emergency measures made pursuant to congressional authorization, or whether the Court will advance the grab-bag approach seen recently in the circuits. 4. Youngstown Revisited The Youngstown analysis enables the Court to validate instances of martial law which Milligan would have found unconstitutional. n363 While Jackson's concurrence represented judicial restriction of executive emergency power, the effect of the rationale behind Youngstown provides the means to expand the emergency authority of the government as a whole. n364 The Court's deferential treatment of congressional-executive cooperation allows, if not invites, the immodest delegation of emergency powers. n365 Should Congress expressly or impliedly authorize the President to implement certain martial law measures, the Youngstown analysis would provide for the legality of those measures. n366 The extent of emergency or martial law measures, however, is not determined solely by the precision of Congress's statutory language in drafting the delegation. Rather, the standard the Court uses to decide whether the statutory language authorizes the measures in question determines the legality or illegality of those measures. n367 It is the duty of the Court to ultimately construe what Congress intended. n368 Thus, the reach of martial law in the twenty-first century, and [\*1437] that of emergency powers more generally, turns on the scrutiny with which the Court reads the statutory language in question. The standard Jackson used in Youngstown required only the implication of authorization. n369 A court uncomfortable with Jackson's low threshold should view Youngstown's standard as a default that can wax or wane depending on the gravity of the circumstances. The Court should subject emergency measures which result in larger deprivations of liberty to a narrower standard. n370 Much like a sliding scale, the Court could measure lighter infringements against a more expansive standard. n371 For example, one of the determining factors behind the Second Circuit Court of Appeals' more restrictive approach in Padilla was that the FBI had arrested Jose Padilla within the United States, far afield from any "zone of combat." n372 Yaser Hamdi, however, was arrested during hostilities in Afghanistan n373 --a point which both courts of appeals explicitly noted in their respective opinions. n374 Judge Wilkinson of the Fourth Circuit Court of Appeals, who wrote a concurring opinion when the court of appeals rejected Hamdi's petition for a rehearing en banc, went as far as to state that, "to compare this battlefield capture [of Hamdi] to the domestic arrest in Padilla v. Rumsfeld is to compare apples and oranges." n375 These geographical dissimilarities strongly influenced each court's construction of the Joint Resolution, and thus the differing outcomes. n376 The Supreme Court may prefer the flexibility of a spectrum-like analysis, taking into account the factual variations of a given case, to determine the appropriate degree of scrutiny in construing congressional language. As then Associate Justice Rehnquist recognized in Dames & Moore v. Regan: Executive action in any particular instance falls, not neatly in one of three pigeonholes, but rather at some point along a spectrum running from explicit congressional authorization to explicit congressional prohibition. This is particularly true as respects cases . . . involving responses to . . . crises the nature of which Congress can hardly have [\*1438] been expected to anticipate in any detail. n377 The point at which the Court will place Hamdi and Padilla on Rehnquist's spectrum depends upon the dexterity with which the justices can juggle apples and oranges. IV. CONCLUSION The Court has a role to play in stemming the excess of emergency and martial law powers proffered by legislatures to executives. That role has taken the form of two distinct analyses. One tests the constitutionality of state invoked martial law through the application of the Fourteenth Amendment. n378 The other examines federal emergency measures purporting to be in accord with congressional authorization. n379 Both attempt to harness the wayward exercise of extraordinary powers of American government; both have differing degrees of success. n380 This Comment has recommended a strategy to improve the Court's application of the Youngstown analysis. n381 Yet the value of any judicial analysis, no matter how sound, extends only as far as the reaches of a free and tolerant society. As Justice Jackson wrote in his Godkin Lectures: "The attitude of a society and of its organized political forces, rather than its legal machinery, is the controlling force in the character of free institutions." n382 In the final analysis, society must determine the acceptable scope of martial law, and the costs it is willing to bear.

#### Context is Key

Haneman 59 J.A.D. is a justice of the Superior Court of New Jersey, Appellate Division. “Russell S. Bertrand et al. v. Donald T. Jones et al.,” 58 NJ Super. 273; 156 A.2d 161; 1959 N.J. Super, Lexis

HN4 In ascertaining the meaning of the word "restrictions" as here employed, it must be considered in context with the entire clause in which it appears. It is to be noted that the exception concerns restrictions "which have been complied with." Plainly, this connotes a representation of compliance by the vendor with any restrictions upon the permitted uses of the subject property. The conclusion that "restrictions" refer solely to a limitation of the manner in which the vendor may [\*\*\*14] use his own lands is strengthened by the further provision found in said clause that the conveyance is "subject to the effect, [\*\*167] if any, of municipal zoning laws." Municipal zoning laws affect the use of property.¶ HN5 A familiar maxim to aid in the construction of contracts is noscitur a sociis. Simply stated, this means that a word is known from its associates. Words of general and specific import take color from each other when associated together, and thus the word of general significance is modified by its associates of restricted sense. 3 Corbin on Contracts, § 552, p. 110; cf. Ford Motor Co. v. New Jersey Department of Labor and Industry, 5 N.J. 494 (1950). The [\*284] word "restrictions," therefore, should be construed as being used in the same limited fashion as "zoning."

#### Reasonability is impossible—it’s arbitrary and undermines research and preparation

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In matters of national security, establishing a clear definition of terms is a precondition for effective policymaking. Decisionmakers who invoke critical terms in an erratic, ad hoc fashion risk alienating their constituencies. They also risk exacerbating misperceptions and hostility among those the policies target. Scholars who commit the same error undercut their ability to conduct valuable empirical research. Hence, if scholars and policymakers fail rigorously to define "engagement," they undermine the ability to build an effective foreign policy.