**OFF 001**

**Immigration will pass – ignore random quotes from pissed off tea-partiers**

**BUCKHOUT 10 – 23 – 13 NDN Staff Blogger** [Emma Buckhout, Immigration Reform: Alive, Not Dead, in the House, <http://ndn.org/blog/2013/10/immigration-reform-alive-not-dead-house>]

A surprising number of recent media reports declare once again that immigration reform is dead- **surprising** because **numerous** House Republicans are **signaling the exact opposite**. It is true that responsibility for action lies with the House GOP after the Senate passed its bipartisan comprehensive immigration reform bill in June, House Democrats have introduced both CIR ASAP and H.R. 15 (now with 184 cosponsors), and President Obama has declared immigration reform a legislative priority. However, the House GOP passed five separate bills out of committee, and this week members have affirmed they are still working on more related to legalization of undocumented immigrants. As long as a contingent of the House majority is willing to keep moving on meaningful pieces of legislation, immigration reform is very much alive.

See these articles:

Speaker Hopeful of Immigration Reform This Year, Donna Cassata, Associated Press, October 23, 2013

“Reps. Mike Coffman, R-Colo., and David Valadao, R-Calif., joined immigrants brought illegally to the U.S. as children who want to join the military at a Capitol Hill news conference. Coffman and Valadao have been working with Majority Leader Eric Cantor, R-Va., and Judiciary Committee Chairman Robert Goodlatte, R-Va., on legislation that would offer citizenship to the children.”

Boehner Says He Might Bring Up Immigration Reform This Year, David Lawder and Caren Bohan, Reuters, October 23, 2013

House Speaker Boehner: "I still think that immigration reform is an important subject that needs to be addressed and I am hopeful."

Immigration Reform: Still Not Quite Dead, Greg Sargent, Washington Post, October 22, 2013

Rep. Mario Diaz-Balart (R, Fla.) says he is working with a number of representatives to figure out: “what to do with the millions of undocumented who are here in a way that completely conforms with the rule of law.”

House Republicans Drafting Immigration Measures, Kristina Peterson, Wall Street Journal, October 22, 2013

“Rep. Mario Diaz-Balart (R., Fla.) and a small group of other lawmakers are working on one proposal that includes elements of –but is expected to diverge from– a bipartisan plan Mr. Diaz-Balart had worked on earlier this year.”

“Rep. Darrell Issa (R., Calif.) is also working on a proposal that would offer temporary legal status to qualifying illegal immigrants, his spokesman said Tuesday.”

Is Immigration Really Dead in the House?, Fawn Johnson, National Journal, October 22, 2013

“Powerful House Republicans like Boehner, Majority Leader Eric Cantor, and Budget Committee Chairman Paul Ryan all want to see something happen on immigration.”

An Immigration Challenge for Boehner, William Galston, Wall Street Journal, October 22, 2013

“…a majority of rank-and-file Republicans, backed by evangelical leaders and business, favor immigration reform….”

Did Shutdown “Poison the Well” for Immigration Reform?, Carrie Dann, NBC News, October 20, 2013

"Another proposal being worked on by Majority Leader Eric Cantor, R-Va., and House Judiciary Chairman Bob Goodlatte, R-Va., would allow some children who were brought the United States illegally as children to obtain legal status.”

Written Off for Dead, Immigration Reform Could Still Live On, Byron York, Washington Examiner, October 17, 2013

"’There is still a window,’ says one House GOP aide involved in crafting a reform proposal. ‘The leadership has said keep working on it and see what you can do.’”

Time Running Out for Immigration Reform, Dan Nowicki, Arizona Republic, October 20, 2013

"’We're still committed to moving forward on step-by-step, common-sense reforms,’ Boehner spokesman Michael Steel told The Arizona Republic in an email. ‘The Judiciary Committee has already passed several bills that could see floor action.’"

**Obama’s top priority – his pressure is key**

**STOKOLS 10 – 17 – 13 Fox31 Denver Staff Writer** [Eli Stokols, ANALYSIS: Obama’s quick pivot to immigration reform, <http://kdvr.com/2013/10/17/analysis-obamas-quick-pivot-to-immigration-reform/>]

Just hours after signing the legislation ending the government shutdown and raising the debt ceiling, President Barack Obama told the country that “there are no winners” after the two-week stalemate that cost the country’s economy more than $20 billion.

But, in the political world, there is a clear winner — the president.

Republicans, by following a bone-headed strategy in pursuit of an unattainable goal, have put their own approval ratings in the toilet 13 months before the 2014 midterm election.

Further, they’ve put some wind back in the sails of an administration that had been rudderless and adrift almost from the start of the president’s second term.

On Thursday morning, Obama looked to press his advantage by urging Republicans in Congress to end the political brinksmanship and to start working together with Democrats on budget negotiations, immigration reform and the farm bill that has stalled in the House.

“To all my friends in Congress, understand that how business is done in this town has to change,” Obama said, implicitly chiding the Republicans who seemingly oppose his administration at every turn.

“You don’t like a particular policy, or a particular president, then argue for your position,” Mr. Obama said in the 15-minute statement. “Go out there and win an election. Push to change it. But don’t break it.”

While another stern lecture from the president isn’t likely to improve relations between the White House and Capitol Hill, **Obama does have a stronger hand** in the upcoming political fights; and **by pivoting quickly to immigration** reform, he’s taking advantage of a sudden window of opportunity.

During his remarks Thursday, Obama re-framed the debate over comprehensive immigration reform, reminding the country of the Senate proposal, passed with broad bipartisan support earlier this year, that’s lingering in the House.

“There’s already a broad coalition across America that’s behind this effort of comprehensive immigration reform — from business leaders to faith leaders to law enforcement,” the president said.

“In fact, the Senate has already passed a bill with strong bipartisan support that would make the biggest commitment to border security in our history; would modernize our legal immigration system; make sure everyone plays by the same rules, makes sure that folks who came here illegally have to pay a fine, pay back taxes, meet their responsibilities.”

The legislation, crafted by a bipartisan group of eight senators including Colorado Sen. Michael Bennet, a Democrat, would spend $46 billion to enhance security on the U.S. Mexico border and create a 13-year path to citizenship for undocumented immigrants.

“It will establish a sensible and rational system for the future flow of immigrants to this country, put in place a process to reunite families and provide a path to citizenship for millions of people who came to this country for a better but are living in the shadows of our society,” Bennet said. “I suggest the House take a hard look at the Senate bill. **There is no reason we can’t work out a final bill to pass into law in the coming months**.”

Obama noted that the legislation is likely to grow the nation’s economy over the next several decades.

“Our economy would be 5 percent larger two decades from now,” the president said. “That’s $1.4 trillion in new economic growth.

“The majority of Americans think this is the right thing to do. And it’s sitting there waiting for the House to pass it. Now, if the House has ideas on how to improve the Senate bill, let’s hear them. Let’s start the negotiations. But let’s not leave this problem to keep festering for another year, or two years, or three years. This can and should get done by the end of this year.”

The president is speaking to a House GOP caucus that is fractured into factions, the body’s growing dysfunction writ large by the debacle of the last two weeks.

While many of the conservative hard-liners who aimed to dismantle Obamacare by shutting down the government **will never support** comprehensive immigration reform, more moderate Republicans — those concerned with the GOP’s ability to win national elections, not just their own grip on their safe, gerrymandered, primary-ripe seats — have likely been chastened by recent polls showing their approval ratings in the 20s.

**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.

**Immigration reform expands skilled labor --- spurs relations and economic growth in China and India.**

**Los Angeles Times, 11/9/2012** (Other countries eagerly await U.S. immigration reform, p. <http://latimesblogs.latimes.com/world_now/2012/11/us-immigration-reform-eagerly-awaited-by-source-countries.html>)

"Comprehensive immigration reform will see **expansion of skilled labor visas**," predicted B. Lindsay Lowell, director of policy studies for the Institute for the Study of International Migration at Georgetown University. A former research chief for the congressionally appointed Commission on Immigration Reform, Lowell said he expects to see at least a **fivefold increase** in the number of highly skilled labor visas that would provide "a **significant shot in the arm for India and China**." There is **widespread consensus among economists and academics** that skilled migration **fosters new trade and business relationships** between countries and **enhances links to the global economy**, Lowell said. "Countries like India and China weigh the opportunities of business abroad from their expats with the possibility of brain drain, and I think they still see the immigration opportunity as a bigger plus than not," he said.

**US/India relations averts South Asian nuclear war.**

**Schaffer**, Spring **2002** (Teresita – Director of the South Asia Program at the Center for Strategic and International Security, Washington Quarterly, p. Lexis)

Washington's increased interest in India since the late 1990s reflects India's economic expansion and position as Asia's newest rising power. New Delhi, for its part, is adjusting to the end of the Cold War. As a result, both giant democracies see that they can **benefit by closer cooperation**. For Washington, the advantages include a wider network of friends in Asia at a time when the region is changing rapidly, as well as a **stronger position** from which to help **calm possible future nuclear tensions in the region**. Enhanced trade and investment benefit both countries and are a **prerequisite for improved U.S. relations with India**. For India, the country's ambition to assume a stronger leadership role in the world and to maintain an economy that lifts its people out of poverty depends critically on good relations with the United States.

**China collapse causes nuclear war**

**Kaminski 7** (Antoni Z., Professor – Institute of Political Studies, “World Order: The Mechanics of Threats (Central European Perspective)”, Polish Quarterly of International Affairs, 1, p. 58)

As already argued, the economic advance of China has taken place with relatively few corresponding changes in the political system, although the operation of political and economic institutions has seen some major changes. Still, tools are missing that would allow the establishment of political and legal foundations for the modem economy, or they are too weak. The tools are efficient public administration, the rule of law, clearly defined ownership rights, efficient banking system, etc. For these reasons, many experts fear an economic crisis in China. Considering the importance of the state for the development of the global economy, the crisis would have serious global repercussions. Its political ramifications could be no less dramatic owing to the special position the military occupies in the Chinese political system, and the existence of many potential vexed issues in East Asia (disputes over islands in the China Sea and the Pacific). A potential hotbed of conflict is also Taiwan's status. Economic recession and the related destabilization of internal policies could lead to a political, or even military crisis. The likelihood of the **global escalation** of the conflict is high, as the interests of Russia, China, Japan, Australia and, first and foremost, the US clash in the region.

# OFF 010

**Text: The Office of Legal Counsel should determine that the Executive Branch must release of individuals in military detention who have won their habeas corpus hearing. The President should require the Office of Legal Counsel to publish any legal opinions regarding policies adopted by the Executive Branch. The Executive Branch should comply with the policies recommended by the Office of Legal Counsel.**

**The CP is competitive and solves the case—OLC rulings do not actually remove authority but nevertheless hold binding precedential value on the executive.**

Trevor W. **Morrison**, October **2010**. Professor of Law, Columbia Law School. “STARE DECISIS IN THE OFFICE OF LEGAL COUNSEL,” Columbia Law Review, 110 Colum. L. Rev. 1448, Lexis.

On the other hand, an OLC that says "yes" too often is not in the client's long-run interest. n49 Virtually all of OLC's clients have their own legal staffs, including the White House Counsel's Office in the White House and the general counsel's offices in other departments and agencies. Those offices are capable of answering many of the day-to-day issues that arise in those components. They typically turn to OLC when the issue is sufficiently controversial or complex (especially on constitutional questions) that some external validation holds special value. n50 For example, when a department confronts a difficult or delicate constitutional question in the course of preparing to embark upon a new program or course of action that raises difficult or politically sensitive legal questions, it has an interest in being able to point to a credible source affirming the  [\*1462]  legality of its actions. n51 The in-house legal advice of the agency's general counsel is unlikely to carry the same weight. n52 Thus, even though those offices might possess the expertise necessary to answer at least many of the questions they currently send to OLC, in some contexts they will not take that course because a "yes" from the in-house legal staff is not as valuable as a "yes" from OLC. But that value depends on OLC maintaining its reputation for serious, evenhanded analysis, not mere advocacy. n53

The risk, however, is that OLC's clients will not internalize the long-run costs of taxing OLC's integrity. This is in part because the full measure of those costs will be spread across all of OLC's clients, not just the client agency now before it. The program whose legality the client wants OLC to review, in contrast, is likely to be something in which the client has an immediate and palpable stake. Moreover, the very fact that the agency has come to OLC for legal advice will often mean it thinks there is  [\*1463]  at least a plausible argument that the program is lawful. In that circumstance, the agency is unlikely to see any problem in a "yes" from OLC.

Still, it would be an overstatement to say that OLC risks losing its client base every time it contemplates saying "no." One reason is custom. In some areas, there is a longstanding tradition - rising to the level of an expectation - that certain executive actions or decisions will not be taken without seeking OLC's advice. One example is OLC's bill comment practice, in which it reviews legislation pending in Congress for potential constitutional concerns. If it finds any serious problems, it writes them up and forwards them to the Office of Management and Budget, which combines OLC's comments with other offices' policy reactions to the legislation and generates a coordinated administration position on the legislation. n54 That position is then typically communicated to Congress, either formally or informally. While no statute or regulation mandates OLC's part in this process, it is a deeply entrenched, broadly accepted practice. Thus, although some within the Executive Branch might find it frustrating when OLC raises constitutional concerns in bills the administration wants to support as a policy matter, and although the precise terms in which OLC's constitutional concerns are passed along to Congress are not entirely in OLC's control, there is no realistic prospect that OLC would ever be cut out of the bill comment process entirely. Entrenched practice, then, provides OLC with some measure of protection from the pressure to please its clients.

But there are limits to that protection. Most formal OLC opinions do not arise out of its bill comment practice, which means most are the product of a more truly voluntary choice by the client to seek OLC's advice. And as suggested above, although the Executive Branch at large has an interest in OLC's credibility and integrity, the preservation of those virtues generally falls to OLC itself. OLC's nonlitigating function makes this all the more true. Whereas, for example, the Solicitor General's aim of prevailing before the Supreme Court limits the extent to which she can profitably pursue an extreme agenda inconsistent with current doctrine, OLC faces no such immediate constraint. Whether OLC honors its oft-asserted commitment to legal advice based on its best view of the law depends largely on its own self-restraint.

2. Formal Requests, Binding Answers, and Lawful Alternatives. - Over time, OLC has developed practices and policies that help maintain its independence and credibility. First, before it provides a written opinion, n55 OLC typically requires that the request be in writing from the head or general counsel of the requesting agency, that the request be as specific and concrete as possible, and that the agency provide its own written  [\*1464]  views on the issue as part of its request. n56 These requirements help constrain the requesting agency. Asking a high-ranking member of the agency to commit the agency's views to writing, and to present legal arguments in favor of those views, makes it more difficult for the agency to press extreme positions.

Second, as noted in the Introduction, n57 OLC's legal advice is treated as binding within the Executive Branch until withdrawn or overruled. n58 As a formal matter, the bindingness of the Attorney General's (or, in the modern era, OLC's) legal advice has long been uncertain. n59 The issue has never required formal resolution, however, because by longstanding tradition the advice is treated as binding. n60 OLC protects that tradition today by generally refusing to provide advice if there is any doubt about whether the requesting entity will follow it. n61 This guards against "advice-shopping by entities willing to abide only by advice they like." n62 More broadly, it helps ensure that OLC's answers matter. An agency displeased with OLC's advice cannot simply ignore the advice. The agency might  [\*1465]  construe any ambiguity in OLC's advice to its liking, and in some cases might even ask OLC to reconsider its advice. n63 But the settled practice of treating OLC's advice as binding ensures it is not simply ignored.

In theory, the very bindingness of OLC's opinions creates a risk that agencies will avoid going to OLC in the first place, relying either on their general counsels or even other executive branch offices to the extent they are perceived as more likely to provide welcome answers. This is only a modest risk in practice, however. As noted above, legal advice obtained from an office other than OLC - especially an agency's own general counsel - is unlikely to command the same respect as OLC advice. n64 Indeed, because OLC is widely viewed as "the executive branch's chief legal advisor," n65 an agency's decision not to seek OLC's advice is likely to be viewed by outside observers with skepticism, especially if the in-house advice approves a program or initiative of doubtful legality.

OLC has also developed certain practices to soften the blow of legal advice not to a client's liking. Most significantly, after concluding that a client's proposed course of action is unlawful, OLC frequently works with the client to find a lawful way to pursue its desired ends. n66 As the OLC Guidelines put it, "when OLC concludes that an administration proposal is impermissible, it is appropriate for OLC to go on to suggest modifications that would cure the defect, and OLC should stand ready to work with the administration to craft lawful alternatives." n67 This is a critical component of OLC's work, and distinguishes it sharply from the courts. In addition to "providing a means by which the executive branch lawyer can contribute to the ability of the popularly-elected President and his administration to achieve important policy goals," n68 in more instrumental terms the practice can also reduce the risk of gaming by OLC's clients. And that, in turn, helps preserve the bindingness of OLC's opinions. n69

 [\*1466]  To be sure, OLC's opinions are treated as binding only to the extent they are not displaced by a higher authority. A subsequent judicial decision directly on point will generally be taken to supersede OLC's work, and always if it is from the Supreme Court. OLC's opinions are also subject to "reversal" by the President or the Attorney General. n70 Such reversals are rare, however. As a formal matter, Dawn Johnsen has argued that "the President or attorney general could lawfully override OLC only pursuant to a good faith determination that OLC erred in its legal analysis. The President would violate his constitutional obligation if he were to reject OLC's advice solely on policy grounds." n71 Solely is a key word here, especially for the President. Although his oath of office obliges him to uphold the Constitution, n72 it is not obvious he would violate that oath by pursuing policies that he thinks are plausibly constitutional even if he has not concluded they fit his best view of the law. It is not clear, in other words, that the President's oath commits him to seeking and adhering to a single best view of the law, as opposed to any reasonable or plausible view held in good faith. Yet even assuming the President has some space here, it is hard to see how his oath permits him to reject OLC's advice solely on policy grounds if he concludes that doing so is indefensible as a legal matter. n73 So the President needs at least a plausible legal basis for  [\*1467]  disagreeing with OLC's advice, which itself would likely require some other source of legal advice for him to rely upon.

The White House Counsel's Office might seem like an obvious candidate. But despite recent speculation that the size of that office during the Obama Administration might reflect an intention to use it in this fashion, n74 it continues to be virtually unheard of for the White House to reverse OLC's legal analysis. For one thing, even a deeply staffed White House Counsel's Office typically does not have the time to perform the kind of research and analysis necessary to produce a credible basis for reversing an OLC opinion. n75 For another, as with attempts to rely in the first place on in-house advice in lieu of OLC, any reversal of OLC by the White House Counsel is likely to be viewed with great skepticism by outside observers. If, for example, a congressional committee demands to know why the Executive Branch thinks a particular program is lawful, a response that relies on the conclusions of the White House Counsel is unlikely to suffice if the committee knows that OLC had earlier concluded otherwise. Rightly or wrongly, the White House Counsel's analysis is likely to be treated as an exercise of political will, not dispassionate legal analysis. Put another way, the same reasons that lead the White House to seek OLC's legal advice in the first place - its reputation for  [\*1468]  providing candid, independent legal advice based on its best view of the law - make an outright reversal highly unlikely. n76

Of course, the White House Counsel's Office may well be in frequent contact with OLC on an issue OLC has been asked to analyze, and in many cases is likely to make it abundantly clear what outcome the White House prefers. n77 But that is a matter of presenting arguments to OLC in support of a particular position, not discarding OLC's conclusion when it comes out the other way. n78The White House is not just any other client, and so the nature of - and risks posed by - communications between it and OLC on issues OLC is analyzing deserve special attention. I take that up in Part III. n79 My point at this stage is simply that the prospect of literal reversal by the White House is remote and does not meaningfully threaten the effective bindingness of OLC's decisions.

**All modeling is based on policy – 1AC evidence**

**Chaffee 9, Advocacy Counsel at Human Rights First**, Dismantling Guantanamo: Facing the Challenges of Continued Detention and Repatriation: The Cost of Indefinitely Kicking the Can: Why Continued "Prolonged" Detention Is No Solution To Guantanamo, [http://www.lexisnexis.com/hottopics/lnacademic/?](http://www.lexisnexis.com/hottopics/lnacademic/)

The military leaders recognize the disagreeable company that the U.S. keeps when engaging in indefinite detention without trial. U.S. allies in Europe have implemented no comparable long term detention scheme in armed conflict or administrative preventive detention outside of the deportation context. [n16](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.30065.195976206604&target=results_DocumentContent&returnToKey=20_T18200871754&parent=docview&rand=1379720049684&reloadEntirePage=true#n16) The **governments of countries in Egypt, Malaysia, Zimbabwe, and Kenya** have **authorized indefinite or successive detention schemes in the name of fighting threats from terrorists or insurgents and all those schemes have resulted in violations of fundamental due process norms.**[**n17**](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.30065.195976206604&target=results_DocumentContent&returnToKey=20_T18200871754&parent=docview&rand=1379720049684&reloadEntirePage=true#n17)**In response to this criticism, such governments have cited Guantanamo Bay detention policies to justify repressive schemes of prolonged  [\*191]  detention** without trial-schemes that the U.S. criticizes as authorized arbitrary detention. [n18](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.30065.195976206604&target=results_DocumentContent&returnToKey=20_T18200871754&parent=docview&rand=1379720049684&reloadEntirePage=true#n18)

# OFF 100

**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.

**The multilateral vision of American leadership divides the world between liberal democracies and illiberal peoples – ensures Orientalist violence**

**Falk 09** Richard FALK Emeritus Int’l Law @ Princeton ‘9 Achieving Human Rights p. 52-53

The transition to a regulated structure of world order is underway and is assured unless a catastrophic breakdown occurs, due to ecological, economic, or political collapse. That is, the Westphalian form of world order, based on the state system, while resilient, is essentially being displaced from above and below. It is not only the case that the main struggle since 9/11 is being waged by a global state on the one side and a loosely linked headless network on the other side; the impact of multi-dimensional globalization is also making borders less important in most respects (although more important in some-for instance, restricting transnational migrants). And normative developments are now associated with international accountability for gross violations of human rights and for the commission of such crimes as genocide, torture, and ethnic cleansing. Much of the literature that recognizes this emergent global governance stresses the **inevitability** of **American leadership**. The **mainstream** debate is whether this leadership will take a **cooperative**, economic form as it did in the 1990s or move in direction of the unilateralist, coercive form of the early years of the twenty-first century.36 The outcome of the November 2004 American presidential elections, together with the impact of the purported transfer of sovereignty to Iraq on June 30, 2004, as well as the anti-war outcome of the 2006 congressional elections seemed to supply a short-term answer. The main argument being made seems likely to be unaffected by a change in the elected leadership of the United States, although the 2008 presidential elections might produce some **tactical adjustments** associated with the high costs of continuing the Iraq War. **Either** foreign policy **path** is **essentially Orientalist** in the sense of building a future world order on the basis of **American interests**, **an American worldview**, and an **American model** of constitutional democracy. Neither is sensitive, in the slightest, to the ordeal of the Palestinian people, and thus bitter resentments directed at the United States will be kept alive, especially in the Arab world. International law will continue to play a double role, facilitating the pretensions of the American model of "democracy" as an expression of a commitment to the realization of international human rights and offering opponents of this model legal standards and principles by which to validate their anti-imperial, antiAmerican resistance. In my view, only a **non-Orientalist reshaping** of global governance can be beneficial for the peoples of the world and **sustainable** over time. In that process, the **de-Orientalizing** of the **normative order** is of **paramount importance**, providing positive images of accountability, participation, and justice that do not universalize the mythic or existential realities of the American experience and that draw fully upon the creative energies and cultural worldviews of the diverse civilizations that together constitute the world. Such expectations may presently seem utopian , but that is only because our horizons are now clouded by **warmongering "realists"** and **global imperialists**. To **dream freely** of a benevolent future is the only way to encourage the **moral and political imagination** of people throughout the world to take responsibility for their own future, thereby repudiating in the most decisive way the deforming impacts of Orientalism in all of its sinister forms.

**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 reject their 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.

# ---OFF 011

#### Authority over indefinite detention is the authority TO DETAIN enemy combatants

GLAZIER 06 Associate Professor at Loyola Law School in Los Angeles, California [David Glazier, ARTICLE: FULL AND FAIR BY WHAT MEASURE?: IDENTIFYING THE INTERNATIONAL LAW REGULATING MILITARY COMMISSION PROCEDURE, Boston University International Law Journal, Spring, 2006, 24 B.U. Int'l L.J. 55]

President Bush's decision to consider the terrorist attacks of September 11, 2001, as an act of war has significant legal ramifications. Endorsed by Congress in the Authorization for the Use of Military Force ("AUMF"), n1 this paradigm shift away from treating terrorism as a crime to treating terrorism as an armed conflict allows the United States to exercise "fundamental incidents of waging war." n2 Among these fundamental war powers are the authorities to detain enemy personnel for the duration of hostilities, to subject law of war violators to trials in military tribunals, and to exercise subject matter jurisdiction over the full scope of the law of war, rather than over only those offenses defined in U.S. criminal statutes. n3

#### Restriction is a prohibition on an ACTION – the aff must prohibit indefinite detention

Northglenn 11 (City of Northglenn Zoning Ordinance, “Rules of Construction – Definitions”, http://www.northglenn.org/municode/ch11/content\_11-5.html)

Section 11-5-3. Restrictions. As used in this Chapter 11 of the Municipal Code, the **term "restriction**" shall mean a prohibitive regulation. Any use, activity, operation, building, structure or thing which is the subject of a restriction is prohibited, and no such use, activity, operation, building, structure or thing shall be authorized by any permit or license.

#### The aff restricts immigration authority – it’s a preclusive power of the Executive

Chow 11 (Samuel, JD Benjamin N. Cardozo School of Law, “THE KIYEMBA PARADOX: CREATING A JUDICIAL FRAMEWORK TO ERADICATE INDEFINITE, UNLAWFUL EXECUTIVE DETENTIONS”, 19 Cardozo J. Int'l & Comp. L. 775 2011)

The facts that legitimized the Court's holding in Munaf are substantially different from the facts in Kiyemba. In Kiyemba, the D.C. Circuit Court also held that it did not have the authority to order the petitioners' release into the United States, but for different reasons from those espoused in Munaf. There, the circuit court determined that such release would violate the traditional distribution of immigration authority-a problem that did not exist with the American petitioners in Munaf.2 z As in Munaf, the government concluded that the Kiyemba petitioners' request amounted to a request for "release-plus. ' 23 Unlike Munaf, however, a troubling paradox is raised under the Kiyemba facts as it now stands, the Executive has determined that certain detainees being held unlawfully may, nonetheless, remain indefinitely detained.24 There are three primary elements that contributed to the Uighur 25 plaintiffs' dilemma. First, because of the high risk of torture, the Uighurs could not return to their home country of China.26 Second, diplomatic solutions had failed and no third-party country had been willing to accept them.27 Third, the D.C. Circuit Court determined that release into the United States would violate immigration laws and undermine the Executive's ability to administer those laws. 28 Lacking refuge and possibility of asylum, the Uighurs were forced to remain, indefinitely, as prisoners at Guantanamo Bay.

#### Vote neg

#### 1. Limits – It’s also not an authority of the president which explodes limits – they can talk about anything related to the 4 topic areas which makes research impossible.

#### 2. Ground – the courts have NO AUTHORITY to decide to release prisoners – this is necessary to CORE NEGATIVE GROUND about circumvention and interbranch conflict.

#### 3. Extra topicality is an independent voting issue – artificially inflates aff ground and forces us to read counterplans to get back to square one.

# 1NC Hegemony

**Judicial involvement in war power authority debates collapses hegemony**

**POSNER & VERMEULE 07 \*Professor of Law at the University of Chicago Law School. \*\*Professor of Law at Harvard** [Eric A. Posner & Adrian Vermeule, Terror in the Balance: Security, Liberty, and the Courts, Oxford University Press] page 17-18

Whatever the doctrinal formulation, the basic distinction between the two views is that our view counsels courts to provide high deference during emergencies, as courts have actually done, whereas the civil libertarian view does not. During normal times, the deferential view and the civil libertarian view permit the same kinds of executive action, and during war or other emergencies, the deferential view permits more kinds of executive action than the civil libertarian view does. We assume that courts have historically provided extra deference during an emergency or war because they believe that deference enables the government, especially the executive, to act quickly and decisively. Although deference also permits the government to violate rights, violations that are intolerable during normal times become tolerable when the stakes are higher. Civil libertarians, on the other hand, claim either that government action is likely to be worse during emergencies than during normal times, or at least that no extra deference should be afforded to government decisionmaking in times of emergency-and that therefore the deferential position that judges have historically taken in emergencies is a mistake.

The deferential view does not rest on a conceptual claim; it rests on a claim about relative institutional competence and about the comparative statics of governmental and judicial performance across emergencies and normal times. In emergencies, the ordinary life of the nation, and the bureaucratic and legal routines that have been developed in ordinary times, are disrupted. In the case of wars, including the "war on terror," the government and the public are not aware of a threat to national security at time 0. At time 1, an invasion or declaration of war by a foreign power reveals the existence of the threat and may at the same time cause substantial losses. At time 2, an emergency response is undertaken.

Several characteristics of the emergency are worthy of note. First, the threat reduces the social pie-both immediately, to the extent that it is manifested in an attack, and prospectively, to the extent that it reveals that the threatened nation will incur further damage unless it takes costly defensive measures. Second, the defensive measures can be more or less effective. Ideally, the government chooses the least costly means of defusing the threat; typically, this will be some combination of military engagement overseas, increased intelligence gathering, and enhanced policing at home. Third, the defensive measures must be taken quickly, and-because every national threat is unique, unlike ordinary crime-the defensive measures will be extremely hard to evaluate. There are standard ways of preventing and investigating street crime, spouse abuse, child pornography, and the like; and within a range, these ways are constant across jurisdictions and even nation-states. Thus, there is always a template that one can use to evaluate ordinary policing. By contrast, emergency threats vary in their type and magnitude and across jurisdictions, depending heavily on the geopolitical position of the state in question. **Thus, there is no general template that can be used for evaluating the government's response**.

In emergencies, then, judges are at sea, even more so than are executive officials. The novelty of the threats and of the necessary responses makes judicial routines and evolved legal rules seem inapposite, even **obstructive**. There is a premium on the executive's capacities for swift, vigorous, and secretive action. Of course, the judges know that executive action may rest on irrational assumptions, or bad motivations, or may otherwise be misguided. But this knowledge is largely useless to the judges, because they cannot sort good executive action from bad, and they know that **the delay** produced by judicial review **is costly in itself.** In emergencies, the judges have no sensible alternative but to defer heavily to executive action, and the judges know this.

**US decline will not spark wars.**

**MacDonald and Parent 11**—Professor of Political Science at Williams College & Professor of Political Science at University of Miami [Paul K. MacDonald & Joseph M. Parent, “Graceful Decline? The Surprising Success of Great Power Retrenchment,” International Security, Vol. 35, No. 4 (Spring 2011), pp. 7–44]

Our findings are directly relevant to what appears to be an impending great power transition between China and the United States. Estimates of economic performance vary, but most observers expect Chinese GDP to surpass U.S. GDP sometime in the next decade or two. 91 This prospect has generated considerable concern. Many scholars foresee major conflict during a Sino-U.S. ordinal transition. Echoing Gilpin and Copeland, John Mearsheimer sees the crux of the issue as irreconcilable goals: China wants to be America’s superior and the United States wants no peer competitors. In his words, “[N]o amount of goodwill can ameliorate the intense security competition that sets in when an aspiring hegemon appears in Eurasia.” 92

Contrary to these predictions, our analysis suggests some grounds for optimism. Based on the historical track record of great powers facing acute relative decline, the United States should be able to retrench in the coming decades. In the next few years, the United States is ripe to overhaul its military, shift burdens to its allies, and work to decrease costly international commitments. It is likely to initiate and become embroiled in fewer militarized disputes than the average great power and to settle these disputes more amicably. Some might view this prospect with apprehension, fearing the steady erosion of U.S. credibility. Yet our analysis suggests that retrenchment need not signal weakness. Holding on to exposed and expensive commitments simply for the sake of one’s reputation is a greater geopolitical gamble than withdrawing to cheaper, more defensible frontiers.

Some observers might dispute our conclusions, arguing that hegemonic transitions are more conflict prone than other moments of acute relative decline. We counter that there are deductive and empirical reasons to doubt this argument. Theoretically, hegemonic powers should actually find it easier to manage acute relative decline. Fallen hegemons still have formidable capability, which threatens grave harm to any state that tries to cross them. Further, they are no longer the top target for balancing coalitions, and recovering hegemons may be influential because they can play a pivotal role in alliance formation. In addition, hegemonic powers, almost by definition, possess more extensive overseas commitments; they should be able to more readily identify and eliminate extraneous burdens without exposing vulnerabilities or exciting domestic populations.

We believe the **empirical record supports these conclusions**. In particular, periods of hegemonic transition do not appear more conflict prone than those of acute decline. The last reversal at the pinnacle of power was the AngloAmerican transition, which took place around 1872 and was resolved without armed confrontation. The tenor of that transition may have been influenced by a number of factors: both states were democratic maritime empires, the United States was slowly emerging from the Civil War, and Great Britain could likely coast on a large lead in domestic capital stock. Although China and the United States differ in regime type, similar factors may work to cushion the impending Sino-American transition. Both are large, relatively secure continental great powers, a fact that mitigates potential geopolitical competition. 93 China faces a variety of domestic political challenges, including strains among rival regions, which may complicate its ability to sustain its economic performance or engage in foreign policy adventurism. 94

Most important, the United States is not in free fall. Extrapolating the data into the future, we anticipate the United States will experience a “moderate” decline, losing from 2 to 4 percent of its share of great power GDP in the five years after being surpassed by China sometime in the next decade or two. 95 Given the relatively gradual rate of U.S. decline relative to China, the incentives for either side to run risks by courting conflict are minimal. The United States would still possess upwards of a third of the share of great power GDP, and would have little to gain from provoking a crisis over a peripheral issue. Conversely, China has few incentives to exploit U.S. weakness. 96 Given the importance of the U.S. market to the Chinese economy, in addition to the critical role played by the dollar as a global reserve currency, it is unclear how Beijing could hope to consolidate or expand its increasingly advantageous position through direct confrontation. In short, the United States should be able to reduce its foreign policy commitments in East Asia in the coming decades without inviting Chinese expansionism. Indeed, there is evidence that a policy of retrenchment could reap potential benefits. The drawdown and repositioning of U.S. troops in South Korea, for example, rather than fostering instability, has resulted in an improvement in the occasionally strained relationship between Washington and Seoul. 97 U.S. moderation on Taiwan, rather than encouraging hard-liners in Beijing, resulted in an improvement in cross-strait relations and reassured U.S. allies that Washington would not inadvertently drag them into a Sino-U.S. conflict. 98 Moreover, Washington’s support for the development of multilateral security institutions, rather than harming bilateral alliances, could work to enhance U.S. prestige while embedding China within a more transparent regional order. 99 A policy of gradual retrenchment need not undermine the credibility of U.S. alliance commitments or unleash destabilizing regional security dilemmas. Indeed, even if Beijing harbored revisionist intent, it is unclear that China will have the force projection capabilities necessary to take and hold additional territory. 100 By incrementally shifting burdens to regional allies and multilateral institutions, the United States can strengthen the credibility of its core commitments while accommodating the interests of a rising China. Not least among the benefits of retrenchment is that it helps alleviate an unsustainable financial position. Immense forward deployments will only exacerbate U.S. grand strategic problems and risk unnecessary clashes. 101

**Legitimacy doesn’t matter**

**Gray 11** [COLIN S. GRAY is Professor of International Politics and Strategic Studies at the University of Reading, England. He worked at the International Institute for Strategic Studies (London), and at Hudson Institute (Croton-on-Hudson, NY) before founding the National Institute for Public Policy, a defense-oriented think tank in the Washington, DC, area. Dr. Gray served for 5 years in the Reagan administration on the President’s General Advisory Committee on Arms Control and Disarmament. He has served as an adviser to both the U.S. and British governments (he has dual citizenship). His government work has included studies of nuclear strategy, arms control, maritime strategy, space strategy and the use of special forces. Dr. Gray has written 24 books, including: The Sheriff: America’s Defense of the New World Order (University Press of Kentucky, 2004); Another Bloody Century: Future Warfare (Weidenfeld and Nicolson, 2005); Strategy and History: Essays on Theory and Practice (Routledge, 2007; Potomac Books, 2009); National Security Dilemmas: Challenges and Opportunities (Potomac Books, 2009); and The Strategy Bridge: Theory for Practice (Oxford University Press, 2010). His next book will be Airpower for Strategic Effect. Dr. Gray is a graduate of the Universities of Manchester and Oxford.] April, HARD POWER AND SOFT POWER: THE UTILITY OF MILITARY FORCE AS AN INSTRUMENT OF POLICY IN THE 21ST CENTURY <http://www.strategicstudiesinstitute.army.mil/pdffiles/PUB1059.pdf>

6. Soft power substantially is not discretionary and the concept is more likely to mislead than to enlighten. Soft power is a heroically imprecise concept, save only with respect to what it is not—hard power. If hard power is defined as the ability purposefully to inflict pain or to reward in the pursuit of influence, it is convenient and plausible to identify it with military and economic instruments of policy. Therefore, its opposite, soft power, is the ability to achieve influence by means other than military and economic. Joseph S. Nye, Jr., has been the principal spokesman for soft power. He explains as follows: Everyone is familiar with hard power. We know that military and economic might often get others to change their position. Hard power can rest on inducement (“carrots”) or threats (“sticks”). But sometimes you can get the outcomes you want without tangible threats or payoffs. The indirect way to get what you want has sometimes been called “the second face of power.” A country may obtain the outcomes it wants in world politics because other countries—admiring its values, emulating its example, aspiring to its level of prosperity and openness—want to follow it. In this sense, it is also important to set the agenda and attract others in world politics, and not only to force them to change by threatening military force or economic sanctions. This soft power—getting others to want the outcomes that you want—co-opts people rather than coerces them. 36 Nye did not discover the seemingly glittering gem that is the idea of soft power, and he makes no attempt to suggest otherwise. We can say that he was the first 29 to present the idea in full analytical rigor. Soft power has been enjoyed and exercised from the very beginning of human social interaction. The concept attracts attention today largely because it appears to offer an approach to the achievement of influence in world affairs that is complementary, and possibly even alternative, to that exercised through hard military and economic power. Before proceeding further, it is essential to grasp the particular issue that we must regard as the examination question for this monograph. Specifically, the question is whether or not soft power can and should substitute for hard power. Further, if some substitution is possible, what are likely to be the advantages and disadvantages of each course, that is, of the United States achieving influence either “softly” or by means of the pain and reward of hard-tempered power? Let us explore the proposition that there is, or could be, a soft power substitute for hard military power. Whether or not military power retains an absolute utility, it may be determined that soft power can be as useful, or more so, and probably at only a fraction of the cost. In such comparisons, it is important not to be captured analytically by the posing of unhelpful mutual exclusives: soft power or hard power; utility or disutility; success or failure. Soft power is potentially a dangerous idea not because it is unsound, which it is not, but rather for the faulty inference that careless or unwary observers draw from it. Such inferences are a challenge to theorists because they are unable to control the ways in which their ideas will be interpreted and applied in practice by those unwary observers. Concepts can be tricky. They seem to make sense of what otherwise is intellectually undergoverned space, and thus 30 potentially come to control pliable minds. Given that men behave as their minds suggest and command, it is easy to understand why Clausewitz identified the enemy’s will as the target for influence. 37 Beliefs about soft power in turn have potentially negative implications for attitudes toward the hard power of military force and economic muscle. Thus, **soft power does not lend itself to careful regulation, adjustment, and calibration**. What does this mean? To begin with a vital contrast: whereas military force and economic pressure (negative or positive) can be applied by choice as to quantity and quality, **soft power cannot**. (Of course, the enemy/rival too has a vote on the outcome, regardless of the texture of the power applied.) But hard power allows us to decide how we will play in shaping and modulating the relevant narrative, even though the course of history must be an interactive one once the engagement is joined. In principle, we can turn the tap on or off at our discretion. The reality is apt to be somewhat different because, as noted above, the enemy, contingency, and friction will intervene. But still a noteworthy measure of initiative derives from the threat and use of military force and economic power. But soft power is very different indeed as an instrument of policy. In fact, I am tempted to challenge the proposition that soft power can even be regarded as one (or more) among the grand strategic instruments of policy. The seeming validity and attractiveness of soft power lead to easy exaggeration of its potency. Soft power is admitted by all to defy metric analysis, but this is not a fatal weakness. Indeed, the instruments of hard power that do lend themselves readily to metric assessment can also be unjustifiably seductive. But the metrics of tactical calculation need not be strategically 31 revealing. It is important to win battles, but victory in war is a considerably different matter than the simple accumulation of tactical successes. Thus, **the burden of proof remains on soft power**: (1) What is this concept of soft power? (2) Where does it come from and who or what controls it? and (3) Prudently assessed and anticipated, what is the quantity and quality of its potential influence? Let us now consider answers to these questions. 7. Soft power lends itself too easily to mischaracterization as the (generally unavailable) alternative to military and economic power. The first of the three questions posed above all but invites a misleading answer. Nye plausibly offers the co-option of people rather than their coercion as the defining principle of soft power. 38 The source of possible misunderstanding is the fact that merely by conjuring an alternative species of power, an obvious but unjustified sense of equivalence between the binary elements is produced. Moreover, such an elementary shortlist implies a fitness for comparison, an impression that the two options are like-for-like in their consequences, though not in their methods. By conceptually corralling a country’s potentially attractive co-optive assets under the umbrella of soft power, one is near certain to devalue the significance of an enabling context. Power of all kinds depends upon context for its value, but especially so for the soft variety. For power to be influential, those who are to be influenced have a decisive vote. But the effects of contemporary warfare do not allow recipients the luxury of a vote. They are coerced. On the other hand, the willingness to be coopted by American soft power varies hugely among 32 recipients. In fact, there are many contexts wherein the total of American soft power would add up in the negative, not the positive. When soft power capabilities are strong in their values and cultural trappings, there is always the danger that they will incite resentment, hostility, and a potent “blowback.” In those cases, American soft power would indeed be strong, but in a counterproductive direction. These conclusions imply no criticism of American soft power per se. The problem would lie in the belief that soft power is a reliable instrument of policy that could complement or in some instances replace military force. 8. Soft power is perilously reliant on the calculations and feelings of frequently undermotivated foreigners. The second question above asked about the provenance and ownership of soft power. Nye correctly notes that “soft power **does not belong to the government** in the same degree that hard power does.” He proceeds sensibly to contrast the armed forces along with plainly national economic assets with the “soft power resources [that] are separate from American government and only partly responsive to its purposes.” 39 Nye cites as a prominent example of this disjunction in responsiveness the fact that “[i]n the Vietnam era . . . American government policy and popular culture worked at cross-purposes.” 40 Although soft power can be employed purposefully as an instrument of national policy, such power is notably **unpredictable** in its potential influence, producing net benefit or harm. Bluntly stated, America is what it is, and there are many in the world who do not like what it is. The U.S. Government will have the ability to proj-33 ect American values in the hope, if not quite confident expectation, that “the American way” will be found attractive in alien parts of the world. Our hopes would seem to be achievement of the following: (1) love and respect of American ideals and artifacts (civilization); (2) love and respect of America; and (3) willingness to cooperate with American policy today and tomorrow. Admittedly, this agenda is reductionist, but the cause and desired effects are accurate enough. Culture is as culture does and speaks and produces. The soft power of values culturally expressed that others might find attractive is always at risk to negation by the evidence of national deeds that appear to contradict our cultural persona. Moreover, no contemporary U.S. government owns all of America’s soft power—a considerable understatement. Nor do contemporary Americans and their institutions own all of their country’s soft power. America today is the product of America’s many yesterdays, and the worldwide target audiences for American soft power respond to the whole of the America that they have perceived, including facts, legends, and myths. 41 Obviously, what they understand about America may well be substantially untrue, certainly it will be incomplete. At a minimum, foreigners must react to an American soft power that is **filtered by their local cultural interpretation**. America is a future-oriented country, ever remaking itself and believing that, with the grace of God, history moves forward progressively toward an ever-better tomorrow. This optimistic **American futurism** both **contrasts with foreigners’ cultural pessimism**—their golden ages may lie in the past, not the future—which prevails in much of the world and is liable to mislead Americans as to 34 the reception our soft power story will have. 42 Many people indeed, probably most people, in the world beyond the United States **have a fairly settled view of America**, American purposes, and Americans. This locally held view derives from their whole experience of exposure to things American as well as from the features of their own “cultural thoughtways” and history that shape their interpretation of American-authored words and deeds, past and present. 43 This is not to say that soft power is unimportant or invariably misapprehended. Perceptions of America can and do alter over time. But the soft power of ideas and of practices that non-Americans may be persuaded to adopt and possibly adapt with consequences favorable for U.S. interests, do not constitute a policy instrument (or basket of such instruments) seriously comparable to military force. The greatest among history’s great powers have usually been attractive civilizations worthy of admiration and emulation as well as potent coercers. 44 Many foreigners have desired to join the contemporary winner not only for reasons of crude self-interest, but also to share the hegemonic power’s style of living and advanced thought. The flattery of imitation has an ancient historical lineage. Imperial rule as well as the less mandatory hegemonic influence has always been manifested in the practice of more or less voluntary co-option of those who deemed it prudent, advantageous, and generally sensible to “follow the leader.” All great powers should command respect, and not infrequently they are also feared. But few genuinely inspire a desire in others to emulate them culturally, save for reasons of anticipated material advantage. For example, China today does serve as a model worthy of respect for its thus far successful blending of 35 economic advance with tight political control. However, such respect rests upon no normative element beyond the values of greed and political discipline (values refer only to that which is valued). The Chinese practice of governance might just possibly be an example of soft power, but to label it thus betrays democratic values. One could as well say that Benito Mussolini’s Italy enjoyed some soft-power benefit as an example of strong anti-democratic rule. Indeed, the brutal modernist dictatorships of communism, fascism, and nazism, as well as their more or less pale reflections outside Europe, provided much evidence of soft power. Dictatorial leaders and party functionaries adopted and adapted foreign ideas of a firm hand both because they appeared to work well, and because the ideas of leadership, social discipline, and a congeries of repressive measures held quite genuine appeal. When Americans today think about the appeal of soft power, they often forget that the concept is content-free. It is about voluntary co-option for reason of an attraction of values, but it says nothing about the particular values that are borrowed and somewhat nationalized. A liking for genocide of the “unworthy” has been known to have appeal across political and cultural frontiers. **Soft power is not by definition only the soft power of humane liberal values**. It bears repeating because it passes unnoticed that culture, and indeed civilization itself, are dynamic, not static phenomena. They are what they are for good and sufficient local geographical and historical reasons, and cannot easily be adapted to fit changing political and strategic needs. For an obvious example, the dominant American strategic culture, though allowing exceptions, still retains its principal features, the exploitation of technology and mass. 45 These fea-36 tures can be pathological when circumstances are not narrowly conducive to their exploitation. Much as it was feared only a very few years ago that, in reaction to the neglect of culture for decades previously, the cultural turn in strategic studies was too sharp, so today there is a danger that the critique of strategic culturalism is proceeding too far. 46 The error lies in the search for, and inevitable finding of, “golden keys” and “silver bullets” to resolve current versions of enduring problems. Soft-power salesmen have a potent product-mix to sell, but they fail to appreciate the reality that American soft power is a product essentially unalterable over a short span of years. As a country with a cultural or civilizational brand that is unique and mainly rooted in deep historical, geographical, and ideational roots, America is not at liberty to emulate a major car manufacturer and advertise an extensive and varied model range of persuasive soft-power profiles. Of course, some elements of soft power can be emphasized purposefully in tailored word and deed. However, foreign perceptions of the United States are no more developed from a blank page than the American past can be retooled and fine-tuned for contemporary advantage. Frustrating though it may be, a country cannot easily escape legacies from its past. 9. The domain for the policy utility of soft power typically is either structurally permissive of easy success, or is unduly resistant to such influence. The third fundamental question about soft power in need of answer can best be posed in only two words, “So what?” The combined fallacies of misnaming and over-simplification that threaten the integrity and utility of the concept of soft power are more than merely 37 an academic itch that can be scratched into oblivion. The soft power concept is sufficiently valid intellectually that its contestable evidential base in history and thus its true fragility are easily missed. To explain its logic: soft power resides in the ability to co-opt the willing rather than to coerce or compel the reluctant; American soft power attracts non-Americans because it represents or advances values, ideas, practices, and arrangements that they judge to be in their interest, or at least to which they feel some bond of affinity. Therefore, the soft power of the American hegemon is some conflation of perceived interests with ideological association (by and large more tacit than explicit). Full-blown, the argument holds, first, that America (for example) gains useful political clout if and when foreigners who matter highly to U.S. national security share important American understandings, values, and preferences. The thesis proceeds in its second step to package this thus far commonsense proposition under the banner of “soft power”; it is now dangerously objectified, as if giving something a name causes it to exist. Next, the third and most problematic step in the argument is the logical leap that holds that American soft power, as existing reality—what it is, and its effects—can be approached and treated usefully as an instrument of national policy. This is an attractive proposition: it is unfortunate that its promise is thoroughly unreliable. The problem lies in the extensive middle region that lies between a near harmony of values and perceived interests and, at the opposite end of the spectrum, a close to complete antagonism between those values and interests. **Historical evidence as well as reason suggest that the effective domain of soft power is modest**. The scope and opportunity for co-option by soft power are even less. People and polities have not usually been moved far by argument, 38 enticement, and attractiveness. There will be some attraction to, and imitation of, a great power’s ideas and practical example, but this fact has little consequence for the utility of military force. Indeed, one suspects that on many occasions what might be claimed as a triumph for soft power is in reality no such thing. Societies and their political leaders may be genuinely attracted to some features of American ideology and practice, but the clinching reason for their agreement to sign on to an American position or initiative will be that the United States looks convincing as a guardian state and coalition leader. It is not difficult to identify reasons why military force seems to be less useful as a source of security than it once was. But it is less evident that soft power can fill the space thus vacated by the military and economic tools of grand strategy. Soft power should become more potent, courtesy of the electronic revolution that enables a networked global community. The ideological, political, and strategic consequences of such globalization, however, are not quite as benign as one might have predicted. It transpires that Francis Fukuyama was wrong; the age of ideologically fueled hostility has not passed after all. 47 Also, it is not obvious that the future belongs to a distinctively Western civilization. 48 It is well not to forget that the Internet is content-blind, and it advertises, promotes, and helps enable bloody antagonism in addition to the harmony of worldview that many optimists have anticipated. It does not follow from all this that the hard power of military force retains, let alone increases, its utility as an instrument of policy. But assuredly it does follow that the historical motives behind defense preparation are not greatly diminished. Thus, there is some noteworthy disharmony between the need for hard power 39 and its availability, beset as it increasingly is by liberal global attitudes that heavily favor restraint.

**Wartime means Obama will ignore the decision. Noncompliance undermines the Court’s legitimacy and makes the plan worthless**

**Pushaw 4**—Professor of law @ Pepperdine University [Robert J. Pushaw, Jr., “Defending Deference: A Response to Professors Epstein and Wells,” Missouri Law Review, Vol. 69, 2004]

Civil libertarians have urged the Court to exercise the same sort of **judicial review over war powers** as it does in purely domestic cases—i.e., independently interpreting and applying the law of the Constitution, despite the contrary view of the political branches and regardless of the political repercussions.54 This proposed solution ignores the institutional differences, embedded in the Constitution, that have always led federal judges to review warmaking under special standards. Most obviously, the President can act with a speed, decisiveness, and access to information (often highly confidential) that cannot be matched by Congress, which must garner a majority of hundreds of legislators representing multiple interests.55 Moreover, the judiciary by design acts far more slowly than either political branch. A court must wait for parties to initiate a suit, oversee the litigation process, and render a deliberative judgment that applies the law to the pertinent facts.56 Hence, by the time federal judges (particularly those on the Supreme Court) decide a case, the action taken by the executive is several years old. Sometimes, this delay is long enough that the crisis has passed and the Court’s detached perspective has been restored.57 At other times, however, the **war rages, the President’s action is set in stone, and he will ignore any judicial orders** that he conform his conduct to constitutional norms.58 In such critical situations, issuing a judgment simply **weakens the Court** as an institution, as Chief Justice Taney learned the hard way.59

Professor Wells understands the foregoing institutional differences and thus does not naively demand that the Court exercise regular judicial review to safeguard individual constitutional rights, come hell or high water. Nonetheless, she remains troubled by cases in which the Court’s examination of executive action is so cursory as to amount to an abdication of its responsibilities—and a stamp of constitutional approval for the President’s actions.60 Therefore, she proposes a compromise: requiring the President to establish a reasonable basis for the measures he has taken in response to a genuine risk to national security.61 In this way, federal judges would ensure accountability not by substituting their judgments for those of executive officials (as hap-pens with normal judicial review), but rather by forcing them to adequately justify their decisions.62

This proposal intelligently blends a concern for individual rights with pragmatism. Civil libertarians often overlook the basic point that constitutional rights are **not absolute**, but rather may be infringed if the government has a compelling reason for doing so and employs the least restrictive means to achieve that interest.63 Obviously, national security is a **compelling governmental interest**.64 Professor Wells’s crucial insight is that courts should not allow the President simply to assert that “national security” necessitated his actions; rather, he must concretely demonstrate that his policies were a reasonable and narrowly tailored response to a particular risk that had been assessed accurately.65

Although this approach is plausible in theory, I am not sure it would work well in practice. Presumably, the President almost **always will be able to set forth plausible justifications for his actions**, often based on a wide array of factors—including highly sensitive intelligence that he does not wish to dis-close.66 Moreover, if the President’s response seems unduly harsh, he will likely cite the wisdom of erring on the side of caution. If the Court disagrees, it will have to find that those proffered reasons are pretextual and that the President overreacted emotionally instead of rationally evaluating and responding to the true risks involved. But are judges competent to make such determinations? And even if they are, would they be willing to impugn the President’s integrity and judgment? If so, what effect might such a judicial decision have on America’s foreign relations? These questions are worth pondering before concluding that “hard look” review would be an improvement over the Court’s established approach.

Moreover, such searching scrutiny will be **useless in situations where the President has made a wartime decision** that he will not change, even if judicially ordered to do so. For instance, assume that the Court in Korematsu had applied “hard look” review and found that President Roosevelt had wildly exaggerated the sabotage and espionage risks posed by Japanese-Americans and had imprisoned them based on unfounded fears and prejudice (as appears to have been the case). If the Court accordingly had struck down FDR’s order to relocate them, he would likely have **disobeyed it.**

Professor Wells could reply that this result would have been better than what happened, which was that the Court engaged in “pretend” review and stained its reputation by upholding the constitutionality of the President’s odious and unwarranted racial discrimination. I would agree. But I submit that the solution in such unique situations (i.e., where a politically strong President has made a final decision and will defy any contrary court judgment) is **not judicial review in any form**—ordinary, deferential, or hard look. Rather, the Court should simply declare the matter to be a political question and dismiss the case. Although such Bickelian manipulation of the political question doctrine might be legally unprincipled and morally craven, 67 at least it would avoid giving the President political cover by blessing his unconstitutional conduct and instead would force him to shoulder full responsibility. Pg. 968-970

**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]

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.

**Nuclear instability and great power adventurism**

**Miller 12**—Professor of International Security Affairs & Director for the Afghanistan-Pakistan program @ National Defense University [Paul D. Miller (Former Director for Afghanistan on the National Security Council staff under Presidents Bush and Obama), “It’s Not Just Al-Qaeda: Stability in the Most Dangerous Region,” World Affairs Journal, March-April 2012, pg. http://tinyurl.com/lnplsb7]

In fact, the war is only now entering its culminating phase, indicated by the willingness of both US and Taliban officials to talk openly about negotiations, something parties to a conflict do only when they see more benefit to stopping a war than continuing it. That means **the war’s ultimate outcome is likely to be decided by the decisions, battles, and bargaining of the next year or so**. And its outcome will have huge implications for the future of US national security. In turn, that means the **collective decision to ignore the war** and its consequences is foolish at best, dangerous at worst. While Americans have lost interest in the war, the war may still have an interest in America. Now is the time, more than ten years into the effort, to remind ourselves what is at stake in Afghanistan and why the United States must secure lasting stability in South Asia.

It was, of course, al-Qaeda’s attack on the US homeland that triggered the intervention in Afghanistan, but wars, once started, always involve broader considerations than those present at the firing of the first shot. The war in Afghanistan now affects all of America’s interests across South Asia: **Pakistan’s stability** and the security of its nuclear weapons, **NATO’s credibility**, **relations with Iran and Russia**, transnational drug-trafficking networks, and more. America leaves the job in Afghanistan unfinished at its peril.

The chorus of voices in the Washington policy establishment calling for withdrawal is growing louder. In response to this pressure, President Obama has pledged to withdraw the surge of thirty thousand US troops by September 2012—faster than US military commanders have recommended—and fully transition leadership for the country’s security to the Afghans in 2013. These decisions mirror the anxieties of the electorate: fifty-six percent of Americans surveyed recently by the Pew Research Center said that the US should remove its troops as soon as possible.

But it is not too late for Obama (who, after all, campaigned in 2008 on the importance of Afghanistan, portraying it as “the good war” in comparison to Iraq) to reformulate US strategy and goals in South Asia and explain to the American people and the world why an ongoing commitment to stabilizing Afghanistan and the region, however unpopular, is nonetheless necessary.

The Afghanistan Study Group, a collection of scholars and former policymakers critical of the current intervention, argued in 2010 that al-Qaeda is no longer in Afghanistan and is unlikely to return, even if Afghanistan reverts to chaos or Taliban rule. It argued that three things would have to happen for al-Qaeda to reestablish a safe haven and threaten the United States: “1) the Taliban must seize control of a substantial portion of the country, 2) Al Qaeda must relocate there in strength, and 3) it must build facilities in this new ‘safe haven’ that will allow it to plan and train more effectively than it can today.” Because all three are unlikely to happen, the Study Group argued, al-Qaeda almost certainly will not reestablish a presence in Afghanistan in a way that threatens US security.

In fact, none of those three steps are necessary for **al-Qaeda** to regain its safe haven and threaten America. The group could return to Afghanistan even if the Taliban do not take back control of the country. It could—and probably would—find safe haven there if Afghanistan relapsed into chaos or civil war. Militant groups, including al-Qaeda offshoots, have gravitated toward other failed states, like Somalia and Yemen, but Afghanistan remains especially tempting, given the network’s familiarity with the terrain and local connections. Nor does al-Qaeda, which was never numerically overwhelming, need to return to Afghanistan “in strength” to be a threat. Terrorist operations, including the attacks of 2001, are typically planned and carried out by very few people. Al-Qaeda’s resilience, therefore, means that stabilizing Afghanistan is, in fact, necessary even for the most basic US war aims. The international community should not withdraw until there is an Afghan government and Afghan security forces with the will and capacity to deny safe haven without international help.

Setting aside the possibility of al-Qaeda’s reemergence, the United States has other important interests in the region as well—notably preventing the Taliban from gaining enough power to destabilize neighboring Pakistan, which, for all its recent defiance, is officially a longstanding American ally. (It signed two mutual defense treaties with the United States in the 1950s, and President Bush designated it a major non-NATO ally in 2004.) **State failure in Pakistan** brokered by the Taliban could mean regional chaos and a possible **loss of control of its nuclear weapons**. Preventing such a catastrophe is clearly a vital national interest of the United States and cannot be accomplished with a few drones.

Alarmingly, Pakistan is edging toward civil war. A collection of militant Islamist groups, including al-Qaeda, Tehrik-e Taliban Pakistan (TTP), and Tehrik-e Nafaz-e Shariat-e Mohammadi (TNSM), among others, are fighting an insurgency that has escalated dramatically since 2007 across Khyber Pakhtunkhwa, the Federally Administered Tribal Areas, and Baluchistan. According to the Brookings Institution’s Pakistan Index, insurgents, militants, and terrorists now regularly launch more than one hundred and fifty attacks per month on Pakistani government, military, and infrastructure targets. In a so far feckless and ineffectual response, Pakistan has deployed nearly one hundred thousand regular army soldiers to its western provinces. At least three thousand soldiers have been killed in combat since 2007, as militants have been able to seize control of whole towns and districts. Tens of thousands of Pakistani civilians and militants—the distinction between them in these areas is not always clear—have been killed in daily terror and counterterror operations.

The two insurgencies in Afghanistan and Pakistan are linked. Defeating the Afghan Taliban would give the United States and Pakistan momentum in the fight against the Pakistani Taliban. A Taliban takeover in Afghanistan, on the other hand, will give new strength to the Pakistani insurgency, which would gain an ally in Kabul, safe haven to train and arm and from which to launch attacks into Pakistan, and a huge morale boost in seeing their compatriots win power in a neighboring country. Pakistan’s collapse or fall to the Taliban is (at present) unlikely, but the implications of that scenario are so dire that they cannot be ignored. Even short of a collapse, increasing chaos and instability in Pakistan could give cover for terrorists to increase the intensity and scope of their operations, perhaps even to achieve the cherished goal of **stealing a nuclear weapon**.

Although our war there has at times seemed remote, Afghanistan itself occupies crucial geography. Situated between Iran and Pakistan, bordering China, and within reach of Russia and India, it sits on a crossroads of Asia’s great powers. This is why it has, since the nineteenth century, been home to the so-called Great Game—in which the US should continue to be a player.

Two other players, Russia and Iran, are aggressive powers seeking to establish hegemony over their neighbors. Iran is seeking to build nuclear weapons, has an elite military organization (the Quds Force) seeking to export its Islamic Revolution, and uses the terror group Hezbollah as a proxy to bully neighboring countries and threaten Israel. Russia under Vladimir Putin is seeking to reestablish its sphere of influence over its near abroad, in pursuit of which it (probably) cyber-attacked Estonia in 2007, invaded Georgia in 2008, and has continued efforts to subvert Ukraine.

Iran owned much of Afghan territory centuries ago, and continues to share a similar language, culture, and religion with much of the country. It maintains extensive ties with the Taliban, Afghan warlords, and opposition politicians who might replace the corrupt but Western-oriented Karzai government. Building a stable government in Kabul will be a small step in the larger campaign to limit Tehran’s influence.

Russia remains heavily involved in the Central Asian republics. It has worked to oust the United States from the air base at Manas, Kyrgyzstan. It remains interested in the huge energy reserves in Kazakhstan and Turkmenistan. Russia may be wary of significant involvement in Afghanistan proper, unwilling to repeat the Soviet Union’s epic blunder there. But a US withdrawal from Afghanistan followed by Kabul’s collapse would likely **embolden Russia to assert its influence** more aggressively elsewhere in Central Asia or Eastern Europe, especially in the Ukraine.

A US departure from Afghanistan will also continue to resonate for years to come in the strength and purpose of NATO. Every American president since Harry Truman has affirmed the centrality of the Atlantic Alliance to US national security. The war in Afghanistan under the NATO-led International Security Assistance Force (ISAF), the Alliance’s first out-of-area operation in its sixty-year history, was going poorly until the US troop surge. Even with the limited success that followed, allies have complained that the burden in Afghanistan has been distributed unevenly. Some, like the British, Canadians, and Poles, are fighting a shooting war in Kandahar and Helmand, while others, like the Lithuanians and Germans, are doing peacekeeping in Ghor and Kunduz. The poor command and control—split between four regional centers—left decisionmaking slow and poorly coordinated for much of the war. ISAF’s strategy was only clarified in 2008 and 2009, when Generals David McKiernan and Stanley McChrystal finally developed a more coherent campaign plan with counterinsurgency-appropriate rules of engagement.

A bad end in Afghanistan could have **dire consequences for the Atlantic Alliance**, leaving the organization’s future, and especially its **credibility as a deterrent to Russia, in question**. It would not be irrational for a Russian observer of the war in Afghanistan to conclude that if NATO cannot make tough decisions, field effective fighting forces, or distribute burdens evenly, it **cannot defend Europe**. The United States and Europe **must prevent that outcome by salvaging a credible result to its operations in Afghanistan**—one that both persuades Russia that NATO is still a fighting alliance and preserves the organization as a pillar of US national security.

For some critics, organizing US grand strategy around the possible appearance of Russian tanks across the Fulda Gap is the perfect example of generals continuing to fight the last war. For them, the primary threat to US national security comes from terrorists, insurgency, state failure, ecological disaster, infectious pandemic disease, cyber attacks, transnational crime, piracy, and gangs.

But if that view of the world is right, it is all the more reason to remain engaged in Afghanistan, because it is the epicenter of the new, asymmetric, transnational threats to the US and allied national security. Even those who deny al-Qaeda could regain safe haven in Afghanistan cannot deny how much power, and capacity for damage, the drug lords have acquired there. In some years they have controlled wealth equivalent to fifty percent of Afghanistan’s GDP and produced in excess of ninety percent of the world’s heroin. Today, their products feed Europe’s endemic heroin problem, and the wealth this trade generates has done much to undermine nine years of work building a new and legitimate government in Kabul. In their quest for market share, the drug lords will expand wherever there is demand for their product or potential to grow a secure supply, almost certainly starting in Pakistan, where the trade was centered in the 1980s. Where the drug lords go, state failure, along with its accompanying chaos and asymmetric threats, will follow, as the violence and anarchy currently wracking parts of Mexico suggest. Imagine the Federally Administered Tribal Areas as a failed narco-state with the profits funding the revival of al-Qaeda or its many terror offshoots.

South Asia’s narcotics-smuggling cartels are dangerously close to seizing control of an entire state and using it to undermine law, order, and stability across an entire region. The poppy and heroin kingpins are fabulously wealthy and powerful; they oppose US interests, weaken US allies, and are headquartered in Afghanistan. Defeating them is a vital interest of the United States.

The allied mission in Afghanistan also aims to encourage the growth of democracy. Some cringe at the very thought of democratization being a part of US foreign policy, so discredited is the idea, for some, by the Iraq War, by the enduring corruption of the Afghan government, and by neoconservatives’ supposed naïveté and arrogance in assuming that this part of the world would yield so easily to democratic reform. But fostering democracy is still a vital American national security interest. However daunting the experience of trying to grow democracy in hostile soil may be, it is nonetheless true that genuine democratic change brings stability. Democracies tend to ally and trade with each other; they see the world in similar ways, and settle disputes peacefully. Spreading democracy decreases the frequency of war, creates potential allies, widens zones of stability, and as a consequence makes America safer. This is why we dare not give up on democracy promotion in South Asia.

The process of transitioning to democracy is hard, time-consuming, and even risky—it can temporarily increase the chances of instability as the experience in Iraq, among other recent examples, has shown. The difficulties of democratization are particularly well dramatized by events in Afghanistan, which has held four elections in ten years that have not made the country stable or the government honest. Continued inefficiency and corruption has undermined Afghans’ confidence in the government—although not their belief in the idea of democracy—with predictable results on voter turnout.

There is nothing inevitable about democracy’s success, as neoconservatives appeared to believe after the fall of the Soviet Union, the Taliban, or the Baathist regime in Iraq. But there is also nothing inevitable about its failure, as realists have argued in the years since these events. Democracies require longer time lines than an electoral cycle or deployment timetable, and they require security and institutional capacity, not just elections.

Afghanistan will not become a model of democracy within the foreseeable future, thanks to persistent problems of insecurity, corruption, and poverty. But the opportunity for some form of rough democracy in Afghanistan is real. Polling consistently shows that Afghans welcome greater accountability and representation in their government. Their main complaint is not that Kabul is too democratic, but that it is not democratic enough, failing to follow the rules of democratic fair play. That gives the United States the opportunity to continue to encourage genuinely local efforts to build a new democracy through capacity building, technical assistance, and training programs. Given the choice between planting democratic seeds today and accepting a tyranny imposed by a minority, the United States should choose the former every time.

Finally, the United States should remain involved in Afghanistan to prevent the reemergence of a humanitarian catastrophe. If Kabul collapses, civil war will almost certainly erupt and, at bare minimum, the warlords will reestablish their brutal fiefdoms. During Afghanistan’s civil wars, from 1992 to 2001, warlords at the head of sectarian militias regularly committed war crimes, **crimes against humanity, and ethnic cleansing**, as the Afghan Independent Human Rights Commission, Human Rights Watch, and the UN have well documented. The Taliban amassed a long record of massacring civilians and targeting the Hazara for ethnic cleansing, notably at Mazar-i-Sharif in 1998, Robatak Pass in 2000, and Yakawlang in 2001. But their crimes were not unique; Ittihad-e-Islami, for example, was accused of ethnic cleansing against the Hazara during a battle in the West Kabul neighborhood of Afshar in 1993. And if the Taliban take power over part or all of Afghanistan, **reprisal murders** against supporters of the Karzai government, including perhaps **whole tribes**, are likely to be widespread and swift, especially against **women and religious minorities**.

# 1NC Democracy

**No empirical evidence for backsliding**

Wolfgang Merkel, March 2010. Department of Democracy Research, Social Science Research Center, Berlin; and Department of Political Science, Humboldt University, Berlin, Germany. “Are dictatorships returning? Revisiting the ‘democratic rollback’ hypothesis,” Contemporary Politics 16.1, http://www.wzb.eu/sites/default/files/personen/merkel.wolfgang.289/contemporary-politics2010-merkel.pdf.

Since 2007 an increasing number of articles have diagnosed ‘freedom in retreat’ and predicted a ‘return to the authoritarian great powers’. Highly distinguished scholars warn against the ‘democratic rollback’, and articles on the resilience of authoritarian regimes have appeared in the best journals of political science. Is the tide of democratization turning, and do we have to expect a new reverse wave of autocratization? This article argues that **there is no hard empirical evidence that we are witnessing a trend towards re-autocratization** on a global scale. The optimism of the early 1990s of a seemingly irresistible trend towards democracy is partially due to an empirical artefact caused by inappropriate underlying theoretical concepts. The overestimation of human agency and political crafting on the one side and underestimation of structural impediments for democracy on the other side contributed to this optimism, as did the thin concept of ‘electoral democracy’ or teleological speculation about the end of history. Democratic rollback does not seem to be as widespread as is sometimes claimed.

**Democracy is long term – takes years to become fully democratic and their authors assume mature democracies which take decades.**

**Democracies go to war – Israel and India both prove**

**Shaw, 00** (Martin, Professor of International Relations and Politics, University of Sussex, 2000, “Democracy and peace in the global revolution,” http://www.sussex.ac.uk/Users/hafa3/democracy.htm, Hensel)

In the global era, established liberal-democratic states do not fight each other. But once again, it obvious that this is not simply because they are democracies, but because they are embedded in the raft of common Western and global state institutions. Indeed it is not just liberal democracies which do not fight each other: the major non-Western states (Russia, China, India, Brazil, etc.), whether democratic or not, are not likely to fight with the dominant Western powers. Outside the Western core of global state power, however, national centres are more weakly integrated with its institutional structures, and regional institutions which might inhibit local conflicts are much weaker than they are in the core. In the Cold War era, interstate rivalries between major regional powers - such as between Russia and China, India and Pakistan and China, Indonesia and Malaysia, Iran and Iraq, Israel and the Arab states - led to wars and border incidents. While the integrative tendencies in the emerging global polity, including the democratisation trends, may increasingly inhibit wars, it clearly remains possible that such interstate rivalries will generate new wars. It is clear that democratisation in itself is not a guarantee of war-avoidance in such conficts. Israel, the only internally democratic state in the Middle East, has also been the most belligerent; Indian democracy has been quite compatible with bellicosity towards Pakistan. Democratic as well as military governments may see war, so long as it can be kept limited and relatively cost-free, as a means of boosting popularity. Thus Yeltsin’s Russia sought a military solution in the breakaway republic of Chechnya, despite the lessons of the late-Soviet failure in Afghanistan. Only in defeat did Russia’s weak democracy penalise the regime for the new disaster, and then not decisively.

**Democratization in one country won’t spillover globally**

Joshua **Kurlantzick**, CFR Southeast Asia Fellow, 5/19/**11**, "The Great Democracy Meltdown ,"<http://www.cfr.org/democracy-and-human-rights/great-democracy-meltdown/p25142>

But China and Russia are only part of the story. In many ways, the biggest culprits have actually been stable democracies. Consider the case of Myo, a Burmese publisher and activist who I met four years ago in a dingy noodle shop in Rangoon. The educated son of a relatively well-off Burmese family, he told me he had been working for a publishing company in Rangoon, but had to smuggle political messages into pieces he published in magazines that focused on safe topics like soccer or Burmese rap. “It's kind of a game everyone here plays,” he explained, “but after a while it gets so tiring.” When I next met Myo, it was in Thailand two years later. He'd finally grown weary of trying to get his writing past the censors and left for India, then for Thailand. “I'd heard that, before, India had been very welcoming to Burmese activists, particularly after 1988,” Myo said, referring to a period of anti-government rioting in Burma. At one time, Indian officials had assisted Burmese democracy activists, and India's defense minister from 1998 to 2004 was George Fernandes, a prominent human rights advocate who even gave some Burmese exiles shelter in his family compound. By the time Myo came to India, however, Delhi had stopped criticizing the Burmese junta. Instead, it had reversed itself and was engaging the generals under a policy called “Look East.” When Than Shwe, the Burmese junta's leader, paid a state visit to India, he was taken to the burial site of Mahatma Gandhi, a cruelly ironic juxtaposition that [**Amnesty International's Burma specialist called**](https://owa.cfr.org/owa/redir.aspx?C=ef35c5712cbc47a5962e7ca692d3cb7c&URL=http%3a%2f%2fblog.amnestyusa.org%2fasia%2fhas-india-abandoned-burma%2f) “entirely unpalatable.” For Myo, India's chilly new pragmatism was a shock. “I expected China to work with Burma,” he said. “But to see it from India, it was so much more disappointing.” Like Myo, many Western officials had expected that stable developing-world democracies like India, Indonesia, South Africa, Brazil, and Turkey would emerge as powerful advocates for democracy and human rights abroad. But as they've gained power, these emerging democratic giants have acted more like cold-blooded realists. South Africa has for years tolerated Robert Mugabe's brutal regime next door in Zimbabwe, and, in 2007, it even helped to block a U.N. resolution condemning the Burmese junta for human rights abuses. Brazil has cozied up to Iranian dictator Mahmoud Ahmadinejad and to local autocrats like Cuba's Castros. When a prominent Cuban political prisoner named Orlando Zapata Tamayo held a hunger strike and eventually died, former Brazilian President Luiz Inácio Lula da Silva seemed to ridicule Tamayo's struggle, likening the activist to a criminal who was trying to gain publicity. There are exceptions to this trend. Poland, for one, has used its influence to support reformers in other post-Soviet states like Belarus. But Poland is unusual, and by playing a limited—or hostile—role in international democracy promotion efforts, countries like South Africa or Brazil or Turkey have made it easier for autocratic leaders to paint democracy promotion as a Western phenomenon, and even to portray it as an illegal intervention. Why have regional democratic powers opted for this course? It seems hard to believe that a country with, say, Brazil or South Africa's experience of brutal tyranny could actively abet dictators in other nations. But it now appears that the notion of absolute sovereignty, promoted by authoritarian states like China, has resonated with these democratic governments. Many of these emerging democratic powers were leading members of the non-aligned movement during the cold war and weathered Western efforts to foment coups in their countries. Today, they feel extremely uncomfortable joining any international coalition that could undermine other nations' sovereignty, even if potentially for good reason. And many of these countries, such as Turkey and Indonesia and India, may simply be eager to avoid criticism of their own internal human rights abuses.

**Threat of revolts provides authoritarian accountability.**

Mario Gilli and Yuan Li, June 2012. University of Milan-Bicocca; and University of Duisburg. “Citizenry Accountability in Autocracies. The Political Economy of Good Governance in China,” Network of European Peace Scientists, Working Paper, http://www.europeanpeacescientists.org/3\_2012.pdf.

Do the citizens have a role in constraining policies in autocratic governments? Usually the political and economic literature model autocracy as if the citizens have no role in constraining leader’s behavior, but actually autocratic government are afraid of possible citizens’ revolts. In this paper we focus on contemporary China to analyze how citizens might induce an autocratic government to adopt congruent policies. Although there is no party or electoral competition, the leader fears deposition by coup d’état of the selectorate and revolutionary threats from citizens. We build a three player political agency model to study the role of both these constraints and we show that the effectiveness of the selectorate and of revolutionary threats are crucial factors in determining the policy outcomes. In particular, we show that the citizens can effectively discipline the leader because of the revolution threat notwithstanding the selectorate size, but this may result in a failed state when the costs of revolting and the selectorate size are small. As the size of the selectorate and the costs of revolution vary dramatically across countries, our result explain why different types of autocracies arise. In particular our model and results provide a useful framework to interpret China policy in the last twenty years.

**Nigerian judicial decisions are not worth the paper they are written on**

**Adisa 11** [Taiwo Adisa, “FG uncovers corruption in judiciary,” Nigerian Tribune, Friday, 26 August 2011, pg. http://tinyurl.com/3oo4uo6

THE presidency appears to be in a dilemma as to the nature of its intervention in the judicial arm of government, following the submission of a secret report which indicted a number of judicial officers of monumental corruption.

Investigations by the Nigerian Tribune confirmed that the government is in possession of the document which detailed **lots of underhand dealings** in the judiciary.

It was confirmed that unethical practices, such as judgment procurement and actual instances of corruption were probed by the secret committee.

According to investigations, the report, which detailed incidents in the judiciary from 2006 to 2011, confirmed that a number of judges have been named as “living above their legal means.”

It was further confirmed that a number of judicial officers were linked to what was termed “judgment procurement,” which was said to have gulped about N106 billion in recent years.

“The bulk of that sum has been salted away in foreign lands to procure properties in the name of fake companies, fake children, schools and fake associates,” a source privy to the document quoted the submission.

“The last has not been heard of the development in the judiciary, as far as corruption is concerned. A report in the hands of the state has confirmed that some properties were bought globally, especially in Dubai, United Arab Emirates (UAE), South Africa and London. Some of the real owners are judicial personnel, whose total emoluments cannot in anyway justify the purchases.

“Some of them have been found to send their children to some of the most expensive schools in the world, without taking loans. These are mind-boggling discoveries,” the source said.

A source said that the government was worried that a sacred arm of government was being **desecrated** by certain forces and that some of those making the loudest noise about the situation in the judiciary were “**mere poster images of corruption**.”

Though the source said that the government was working to ensure that its actions in the judiciary were not misconstrued as political moves, it was learnt that a decision had been taken to ensure that the guilty did not go unpunished.

“The comprehensive report detailing the rot in the judiciary is in the hands of the highest authorities. I can confirm to you that those mentioned in the report as having been linked to improper conduct cannot go unpunished. The offences vary from judgment procurement to undue influence on judges. It dates back to the Obasanjo/Atiku era,” the source said.

“It has become so embarrassing to the government that judgments of Nigeria, which were readily cited in the United Kingdom and other lands are **no longer regarded**. Law students outside the country no longer see the judgments from Nigeria as worth the paper on which they are written. It is a battle the government must fight to ensure a proper demarcation between politics and the judiciary,” the source said.

**Nigerian anti-Americanism is high**

**Godwin 12** [[Ameh Comrade Godwin](http://dailypost.com.ng/author/ameh-comrade-godwin/), “Anti-Islam movie protest hits Northern Nigeria,” Daily Post, September 21, 2012, pg. http://tinyurl.com/d549m4u

Muslims in the Northern part of Nigeria have joined the league of other countries currently protesting  a US-made anti-Islam movie. Scores of Muslims in their thousands stormed the streets of Zaria, Kaduna State and burnt the United States (US) and Israeli national flags in demonstration of their anger towards the flick .The mass protest was staged by Muslims under the aegis of pro-Iranian Shiite group, Islamic Movement of Nigeria, who were seen with banners and placards with different inscriptions rubbishing the US. The angry protesters dragged the US and Israelis flags along the dusty streets and set them on fire. Armed policemen in vans were on ground to maintain peace.

A low-budget trailer for a movie entitled “Innocence of Muslims,” believed to have been produced by a small group of extremist Christians in the United States, had sparked furious anti-American protests across the Islamic world.

**It will infect the court**

**Schor 08** - Professor of Law @ Suffolk University Law School. [Miguel Schor, “Judicial Review and American Constitutional Exceptionalism,” Osgoode Hall Law Journal, Vol. 46, 2008

This article questions the conventional wisdom that the logic of Marbury has conquered the world’s democracies by exploring two questions: why do social movements contest constitutional meaning by fighting over judicial appointments in the United States, and why does such a strategy make little sense in democracies that constitutionalized rights in the late twentieth century?6 The short answer is that the United States has been both a model and an **anti-model** 7 in the worldwide spread of judicial review. The United States stood astride the world after the Second World War and elements of American constitutionalism such as judicial review proved irresistible to democracies around the globe.8 Polities that adopted judicial review in the late twentieth century, however, **rejected the key assumption** on which judicial review in the United States is founded.. American constitutionalism assumes that law is separate from politics and that courts have the power and the duty to maintain that distinction.

This assumption was rejected because other democracies learned from the American experience that courts that exercise judicial review are powerful political as well as legal actors. The **fear of providing** constitutional **courts with too much power** played an important role in shaping judicial review outside the United States. 9 When judicial review began to spread around the globe in the second half of the twentieth century, the hope of Marbury (the promise of constitutionalized rights) became fused with the fear of Lochner 10 (the possibility that courts might run amok). In seeking to thread a needle between Marbury and Lochner , the American assumption that a constitution is a species of law was rejected in favour of a very different baseline assumption that constitutions are neither law nor politics, but an entirely new genus of “political law.” 11Consequently, democracies abroad adopted stronger mechanisms by which **citizens can hold** constitutional **courts accountable** 12and which make it less likely that social forces will use appointments as a vehicle for constitutional battles. Pg. 37-38

# 2NC K

**Only the K explains the CAUSE of the 1ac – the reason the president has the war powers in the status quo is BECAUSE of the gendered IR and the attempt to eliminate the other**

**Hornberger 13** Jacob G. Hornberger is founder and president of The Future of Freedom Foundation. He was born and raised in Laredo, Texas, and received his B.A. in economics from Virginia Military Institute and his law degree from the University of Texas. He was a trial attorney for twelve years in Texas. He also was an adjunct professor at the University of Dallas, where he taught law and economics. In 1987, Mr. Hornberger left the practice of law to become director of programs at the Foundation for Economic Education. He has advanced freedom and free markets on talk-radio stations all across the country as well as on Fox News’ Neil Cavuto and Greta van Susteren shows and he appeared as a regular commentator on Judge Andrew Napolitano’s show Freedom Watch. http://fff.org/2013/02/13/the-national-security-state-has-led-us-to-the-dark-side/

It seems to me that the most ardent proponents of such things as assassination, indefinite detention, torture, and assassination would concede that all these things reflect a dark side to which our nation has been led since 9/11. They would tell us, however, that such things are just necessary to protect our nation in the “war on terrorism” and to defend “our rights and freedoms” from those who would take them away.

Unfortunately, all too many Americans have bought into this notion. Their feeling is that while they might be discomforted by the dark things that the national-security state is doing to people, they can be excused because they are being done in the defense of our nation and of “our rights and freedoms.”

**But the truth is that none of this is necessary at all. It is instead a direct consequence of having grafted the national-security state** — i.e., the vast military and intelligence establishment — onto our constitutional order and of having failed to dismantle it a long time ago.

For the past 12 years, the warfare statists have told us that our nation is gravely threated by al-Qaeda and other terrorists. Yet, where are the invading forces? Where are the ships transporting armies of terrorists across the oceans to attack and occupy the United States? Where are the long supply lines for the occupying terrorists? Indeed, where is the money to finance such an enormous endeavor, one that would far exceed Nazi Germany’s unsuccessful attempt to cross the English Channel and successfully conquer Great Britain?

The threat is non-existent. The anti-American terrorists not only lack the means to invade, conquer, and occupy the United States, they also lack the interest. Their goal is singular in nature: to kick the U.S. national-security state out of their countries and out of their part of the world.

That’s what all the fighting, assassination, invasions, occupations, rendition, torture, indefinite detentions, sanctions, military tribunals, and denial of due process are all about.

**EVEN if they can drive lawlessness out of the state, it is just recreated underground which makes the impacts worse**

**Gorelick 08** [Nathan Gorelick is a Ph.D. student of Comparative Literature at the State University of New York at Buffalo, where he holds a Presidential Fellowship. His research concerns theories of excess from Blanchot, Bataille and Foucault, and these thinkers' indebtedness to 18th century literatures of death and sexuality in England and France.] “Imagining Extraordinary Renditions: Terror, Torture and the Possibility of an Excessive Ethics in Literature” http://muse.jhu.edu/journals/theory\_and\_event/v011/11.2.gorelick.html

Extraordinary rendition, torture, the war on terror and the security of the state are thus various nodal points within the larger epistemology of liberal humanism -- a humanism that produces its dark chambers in its flight from the black void at its own core. Césaire's "thingification" is the product of this flight. **It would therefore be misguided to assume that the violence endemic to the war on terror can be cured by simply exposing its contradictions**. If images from Abu Ghraib become a common rallying cry against American militarism for disparate political factions around the globe, this cry is unheeded. If legal challenges to abominable state violence are successful, inventive re-interpretations of the law emerge, or lawlessness is simply driven underground. **Instead,** **it is necessary to challenge the systems of thought from which these practices emerge; the task of criticism must be to interrupt the epistemology of the burrow**.

The dark chamber (extraordinary rendition) ought to be understood as a metaphor for this epistemology, and ethical criticism must expose the totality of violence that this metaphor represents without enabling morally totalizing recuperations of the larger world ordering project currently embodied and deployed by the United States. Such a project entails a reconfiguration of the political terrain, or a reconstitution of the limits of political antagonism, but it also implies the need for an even more profound challenge to the ways in which discourses and representations of "self" and "other" are constituted. The task is not simple: as Michael J. Shapiro suggests, "Recognition of the extraordinary lengths to which one must go to challenge a given structure of intelligibility, to intervene in resident meanings by bringing what is silent and unglimpsed into focus, is an essential step toward opening up possibilities for a politics and ethics of discourse."45 If, however, an ethical regard is rendered possible through the work of rigorous critique -- through the establishment of a critical distance between the critic and the object of criticism -then the question for critique concerns the very nature of the ethical itself.

Because the crisis in representation by which the dark chamber is constantly being suppressed is constitutive of politics as such, then the problem, as Coetzee reminds us, is "how not to play the game by the rules of the state, how to establish one's own authority, how to imagine torture and death on one's own terms."46 Coetzee's suggestion that torture and death might be "imagined" implies that an effective intervention should not adopt a strategy of representational verisimilitude -- the goal should not be to take and disseminate photographs of Uzbek or Russian torture chambers, or to produce comprehensive, anatomical descriptions of horrendous state-sanctioned violence. Such efforts risk a different kind of satisfaction than that which is demonstrated by a smiling prison guard at Abu Ghraib, a voyeuristic pleasure in consuming images of a suffering other and a dangerous appropriation of that suffering as something to be easily understood and made one's own. The image thus commodified, its subject's pain is reduced to a political bargaining chip, a source for aesthetic elaboration, a sensational news item; the singularly unrepresentable experience of torture -- the reason for which it is inexcusable -- is polluted by its representation.

**We access education better – methodology shapes policy evaluation**

**Bartlett 90** [professor of law at Duke University, 1990 (Katharine, 103 Harvard Law Review 829, February, lexis)]

Feminists have developed extensive critiques of law n2 and proposals for legal reform. n3 Feminists have had much less to say, however, about what the "doing" of law should entail and what truth status to give to the legal claims that follow. These methodological issues matter because methods shape one's view of the possibilities for legal practice and reform. Method "organizes the apprehension of truth; it determines what counts as evidence and defines what is taken as verification." n4 Feminists cannot ignore method, because if they seek to challenge existing structures of power with the same methods that [\*831] have defined what counts within those structures, they may instead "recreate the illegitimate power structures [that they are] trying to identify and undermine." n5

**Still links – Permutation is an act of imposing masculine order and reason to the world; just placates feminist theory to continue with masculinity by saying “add women and stir”**

**Peterson 00** [V. Spike Peterson Associate Professor of Political Science at the University of Arizona. *SAIS Review* 20.2 (2000) 11-29 Project Muse]

My third starting point is that feminist IR, in spite of a dramatic increase in publications and conference visibility, remains foreign to mainstream IR. More specifically, while "woman" as an empirical referent has gained visibility, feminist claims that gender is an analytic category (that infuses foundational dichotomies) remain poorly understood. In the latter sense, "all of social life is gendered," 6 hence, the dichotomy of masculine-feminine orders not only our subjective identities but also the concepts that structure our thought (for example, private-public, certainty-ambiguity, autonomy-dependence, hard-soft, ) and the practices that structure our options and activities (for example, statemaking-homemaking, paid-unpaid work, science-humanities). So understood, gender is decidedly "not a synonym for women," 7 but a structural, pervasive feature of how we "order" social life. And taking gender seriously involves much more than the important but limited project of "adding women in."

**If they win the perm kick the alternative – the aff is still bad**

**Any residual link is a DA to the perm – the reliance on legal restraint greases the skids of high-tech structural violence. Wrong starting point.**

**Smith 02** Thomas Gov’t & Int’l Affairs @ South Florida “The New Law of War: Legitimizing Hi-Tech and Infrastructural Violence” *Int’l Studies Quarterly* 46 p. 370-371

The utility of law to legitimize modern warfare should not be underestimated. Even in the midst of war, **legal arguments** retain an **aura of legitimacy** that is missing in “political” justifications. The aspirations of humanitarian law are sound. Rather, it is the **instrumental use** of law that has **oiled the skids** of hi-tech violence. Not only does the law defer to military necessity, even when very broadly defined, but more importantly it bestows on those same military demands all the moral and psychological trappings of legality. The result has been to legalize and thus to justify in the public mind “inhumane military methods and their consequences,” as violence against civilians is carried out “**behind the protective veil of justice**” ~af Jochnick and Normand, 1994a:50!. Hi-tech states can defend hugely destructive, essentially unopposed, aerial bombardment by citing the authority of seemingly secular and universal legal standards. The growing gap between hi- and low-tech means may exacerbate inequalities in moral capital as well, as the sheer barbarism of “premodern” violence committed by ethnic cleansers or atavistic warlords makes the methods employed by hi-tech warriors seem all the more clean and legal by contrast. This **fusion of law and technology** is likely to **propel** **future American interventions**. Despite assurances that the campaign against terrorism would differ from past conflicts, the allied air war in Afghanistan, marked by record numbers of unmanned drones and bomber flights at up to 35,000 feet, or nearly 7 miles aloft, rarely strayed from the hi-tech and legalistic script. While the attack on the World Trade Center confirmed a thousand times over the illegality and inhumanity of terrorism, the U.S. response has raised further issues of legality and inhumanity in conventional warfare. Civilian deaths in the campaign have been substantial because “military objects” have been targeted on the basis of extremely low-confidence intelligence. In several cases targets appear to have been chosen based on misinformation and even rank rumor. A liberal reading of dual use and the authorization of bombers to strike unvetted “targets of opportunity” also increased collateral damage. Although 10,000 of the 18,000 bombs, missiles, and other ordnance used in Afghanistan were precision-guided munitions, the war resulted in roughly 1000 to 4000 direct civilian deaths, and, according to the UNHCR, produced 900,000 new refugees and displaced persons. The Pentagon has nevertheless viewed the campaign as “a more antiseptic air war even than the one waged in Kosovo” ~Dao, 2001!. General Tommy Franks, who commanded the campaign, called it “the most accurate war ever fought in this nation’s history” ~Schmitt, 2002!.9 No fundamental change is in sight. Governments continue to justify collateral damage by citing the marvels of technology and the authority of international law. One does see a widening rift between governments and independent human rights and humanitarian relief groups over the interpretation of targeting and dual-use law. But these disputes have only underscored the ambiguities of humanitarian law. As long as interventionist states dominate the way that the rules of war are crafted and construed, hopes of rescuing law from politics will be dim indeed.

**The perm reproduces the violence of the 1ac – they fill critique with institutionalism**

**Gorelick 08** [Nathan Gorelick is a Ph.D. student of Comparative Literature at the State University of New York at Buffalo, where he holds a Presidential Fellowship. His research concerns theories of excess from Blanchot, Bataille and Foucault, and these thinkers' indebtedness to 18th century literatures of death and sexuality in England and France.] “Imagining Extraordinary Renditions: Terror, Torture and the Possibility of an Excessive Ethics in Literature” http://muse.jhu.edu/journals/theory\_and\_event/v011/11.2.gorelick.html

Despite these essential differences, it is possible, through Coetzee's consideration of the danger of rendering the state's "vile mysteries the occasion of fantasy," to discern the properly ethical stakes involved in disrupting the prevailing politics of representation at work in instances of state violence.9 Intervention must be careful to avoid complicity with the institutionally determined limits of discourse as it attempts to challenge an abhorrent, authoritarian legitimacy codified through the deafening silence of apartheid's dark chambers, a challenge voiced on behalf of its smothered, suffering victims. Intervention in the politics of representation within the context of counterterrorism may similarly be understood as a matter of ethical concern; **such an intervention might defer criticism of the historical foundations of both state and non-state violence by emphasizing specific aberrations** like those of Abu Ghraib, **risking an accidental complicity with larger world-ordering projects such as the war on terror.** Or, intervention may prioritize the deficiencies and contradictions within a war-fighting narrative reliant upon simplistic moral judgments such as those discerning the "good" from the "evil" or "freedom" from "tyranny."

Either strategy is necessarily insufficient. That is, in order to determine the nature of what might be called an ethical concern for the representational practices surrounding torture and the war on terror, it is not enough to simply expose the contradictions inherent in this new global conflict, to reveal the contents and practices of the dark chamber. Once the details of the United States' politics of vengeance and the disturbing visual representation of the sovereign right to punish bleed into the field of public discourse, **the task of critique concerns how to respond to this broken silence without instantiating a new or more dangerous violence against that which was previously hidden**.

As increasingly disturbing information regarding specific detention and interrogation practices within the war on terror is revealed, the danger of reproducing or merely dislocating representational violence, especially in this context, is anything but abstract.

**The question of this debate is not if the plan is good, but rather if their epistemology is good**

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III. Literature Beyond Ethics

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So, it is necessary to expose and criticize torture, but the brutality of the experience must somehow be represented in its unrepresentability. A criticism in search of ethical possibilities, in whatever form, must find ways to avoid "either looking on in horrified fascination as the blows fall or turning one's eyes away."47 **It must situate itself at the level of epistemology, rather than fixating on singular eruptions of violence and state brutality. Otherwise, critique is already "play[ing] the game by the rules of the state," operating within the dialectic of visibility endemic to the epistemology of the burrow.**

**Ignore relations WITHIN the state – their reliance on restrictions miss the fact that we must question the structures and NOT the law**

**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.**

**Util bad**

**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.**

**Liberal institutionalism is an imperial ideology disguised by the language of science. Liberal institutionalism requires the elimination of non-liberal forms of life to achieve national security**

Tony SMITH Poli Sci @ Tufts 12 [*Conceptual Politics of Democracy Promotion* eds. Hobson and Kurki p. 206-210]

Writing in 1952, Reinhold Niebuhr expressed this point in what remains arguably the single best book on the United States in world affairs, The Irony of American History. 'There is a deep layer of Messianic consciousness in the mind of America,' the theologian wrote. Still, 'We were, as a matter of fact, always vague, as the whole liberal culture is fortunately vague, about how power is to be related to the allegedly universal values which we hold in trust for mankind' (Niebuhr 2008: 69). 'Fortunate vagueness', he explained, arose from the fact that 'in the liberal version of the dream of managing history, the problem of power is never fully elaborated' (Niebuhr 2008: 73). Here was a happy fact that distinguished us from the communists, who assumed, thanks to their ideology, that they could master history, and so were assured that the end would justify the means, such that world revolution under their auspices would bring about universal justice, freedom , and that most precious of promises, peace. In contrast, Niebuhr could write: On the whole, we have as a nation learned the lesson of history tolerably well. We have heeded the warning 'let not the wise man glory in his wisdom, let not the mighty man glory in his strength.' Though we are not without vainglorious delusions in regard to our power, we are saved by a certain grace inherent in common sense rather than in abstract theories from attempting to cut through the vast ambiguities of our historic situation and thereby bringing our destiny to a tragic conclusion by seeking to bring it to a neat and logical one ... This American experience is a refutation in parable of the whole effort to bring the vast forces of history under the control of any particular will, informed by a particular ideal ... [speaking of the communists] All such efforts are rooted in what seems at first glance to be a contradictory combination of voluntarism and determinism. These efforts are on the one hand excessively voluntaristic, assigning a power to the human will and the purity to the mind of some men which no mortal or group of mortals possesses. On the other, they are excessively deterministic since they regard most men as merely the creatures of an historical process. (Niebuhr 2008: 75, 79) The Irony of American History came out in January 1952, only months after the publication of Hannah Arendt's The Origins of Totalitarianism, a book that reached a conclusion similar to his. Fundamentalist political systems of thought, Arendt (1966: 467-9) wrote, are known for their scientific character; they combine the scientific approach with results of philosophical relevance and pretend to be scientific philosophy . .. Ideologies pretend to know the mysteries of the whole historical process—the secrets of the past, the intricacies of the present, the uncertainties of the future—because of the logic inherent in their respective ideas ... they pretend to have found a way to establish the rule of justice on earth ... All laws have become laws of movement. And she warned: Ideologies are always oriented toward history .... The claim to total explanation promises to explain all historical happenings ... hence ideological thinking becomes emancipated from the reality that we perceive with our five senses, and insists on a ' truer' reality concealed behind all perceptible things, dominating them from this place of concealment and requiring a sixth sense that enables us to become aware of it. ... Once it has established its premise, its point of departure, experiences no longer interfere with ideological thinking, nor can it be taught by reality. (Arendt 1966: 470) For Arendt as for Niebuhr, then, a virtue of liberal democracy was its relative lack of certitude in terms of faith in an iron ideology that rested on a pseudoscientific authority that its worldwide propagation would fulfill some mandate of history, or to put it more concretely, that the United States had been selected by the logic of historical development to expand the perimeter of democratic government and free market capitalism to the ends of the earth, and that in doing so it would serve not only its own basic national security needs but the peace of the world as well. True, in his address to the Congress asking for a declaration of war against Germany in 1917, Wilson had asserted, 'the world must be made safe for democracy. Its peace must be planted upon the tested foundations of political liberty.' (Link 1982: 533). Yet just what this meant and how it might be achieved were issues that were not resolved intellectually—at least not before the 1990s. Reinhold Niebuhr died in 1971, Hannah Arendt in 1975, some two decades short of seeing the 'fortunate vagueness' Niebuhr had saluted during their prime be abandoned by the emergence of what can only be called a ' hard liberal internationalist ideology', one virtually the equal of Marxism- Leninism in its ability to read the logic of History and prescribe how human events might be changed by messianic intervention into a world order where finally justice, freedom , and peace might prevail. The authors of this neo-liberal, neo-Wilsonianism: left and liberal academics. Their place of residence: the United States, in leading universities such as Harvard, Yale, Princeton, and Stanford. Their purpose: the instruction of those who made foreign policy in Washington in the aftermath of the Cold War. Their ambition: to help America translate its 'unipolar moment' into a 'unipolar epoch' by providing American leaders with a conceptual blueprint for making the world safe for democracy by democratising the world, thereby realizing through 'democratic globalism' the century-old Wilsonian dream—the creation of a structure of world peace. Their method: the construction of the missing set of liberal internationalist concepts whose ideological complexity, coherence, and promise would be the essential equivalence of MarxismLeninism, something most liberal internationalists had always wanted to achieve but only now seemed possible. Democratic globalism as imperialism in the 1990s The tragedy of American foreign policy was now at hand. Rather than obeying the strictures of a ' fortunate vagueness' which might check its ' messianic consciousness', as Niebuhr had enjoined, liberal internationalism became possessed of just what Arendt had hoped it might never develop, 'a scientific character ... of philosophic relevance' that 'pretend[s] to know the mysteries of the whole historical process,' that 'pretend[s] to have found a way to establish the rule of justice on earth ' (Niebuhr 2008: 74; Arendt 1966: 470). Only in the aftermath of the Cold War, with the United States triumphant and democracy expanding seemingly of its own accord to many comers of the world—from Central Europe to different countries in Asia (South Korea and Taiwan), Africa (South Africa), and Latin America (Chile and Argentina)—had the moment arrived for democracy promotion to move into a distinctively new mode, one that was self-confidently imperialist. Wilsonians could now maintain that the study of history revealed that it was not so much that American power had won the epic contest with the Soviet Union as that the appeal of liberal internationalism had defeated proletarian internationalism. The victory was best understood, then, as one of ideas, values, and institutions—rather than of states and leaders. In this sense, America had been a vehicle of forces far greater than itself, the sponsor of an international convergence of disparate class, ethnic, and nationalist forces converging into a single movement that had created an historical watershed of extraordinary importance. For a new world, new ways of thinking were mandatory. As Hegel has instructed us, 'Minerva's owl flies out at dusk' , and liberal scholars of the 1990s applied themselves to the task of understanding the great victories of democratic government and open market economies over their adversaries between 1939 and 1989. What, rather exactly, were the virtues of democracy that made these amazing successes possible? How, rather explicitly, might the free world now protect, indeed expand, its perimeter of action? A new concept of power and purpose was called for. Primed by the growth of think-tanks and prestigious official appointments to be 'policy relevant' , shocked by murderous outbreaks witnessed in the Balkans and Central Africa, believing as the liberal left did that progress was possible, Wilsonians set out to formulate their thinking at a level of conceptual sophistication that was to be of fundamental importance to the making of American foreign policy after the year 2000.6 The jewel in the crown of neo-liberal internationalism as it emerged from the seminar rooms of the greatest American universities was known as ' democratic peace theory'. Encapsulated simply as ' democracies do not go to war with one another', the theory contended that liberal democratic governments breed peace among themselves based on their domestic practices of the rule of law, the increased integration of their economies through measures of market openness, and their participation in multilateral organisations to adjudicate conflicts among each other so as to keep the peace. The extraordinary success of the European Union since the announcement of the Marshall Plan in 1947, combined with the close relations between the United States and the world's other liberal democracies, was taken as conclusive evidence that global peace could be expanded should other countries join ' the pacific union ', ' the zone of democratic peace'. A thumb-nail sketch cannot do justice to the richness of the argument. Political scientists of an empirical bent demonstrated conclusively to their satisfaction that 'regime type matters ', that it is in the nature of liberal democracies to keep the peace with one another, especially when they are integrated together economically. Theoretically inclined political scientists then argued that liberal internationalism could be thought of as ' non-utopian and non-ideological ', a scientifically validated set of concepts that should be recognized not only as a new but also a dominant form of conceptual ising the behaviour of states (Moravcsik 1997). And liberal political philosophers could maintain on the basis of democratic peace theory that a Kantian (or Wilsonian) liberal world order was a morally just goal for progressives worldwide to seek so that the anarchy of states, the Hobbesian state of nature, could be superseded and a Golden Age of what some dared call 'post-history' could be inaugurated (Rawls 1999). Yet if it were desirable that the world's leading states be democratised, was it actually possible to achieve such a goal? Here a second group of liberal internationalists emerged, intellectuals who maintained that the transition from authoritarian to democratic government had become far easier to manage than at earlier historical moments. The blueprint of liberal democracy was now tried and proven in terms of values, interests, and institutions in a wide variety of countries. The seeds of democracy could be planted by courageous Great Men virtually anywhere in the world. Where an extra push was needed, then the liberal world could help with a wide variety of agencies from the governmental (such as the Agency for International Development or the National Endowment for Democracy in the United States) to the non-governmental (be it the Open Society Institute, Human Rights Watch, Amnesty International, or Freedom House). With the development of new concepts of democratic transition, the older ideas in democratization studies of 'sequences' and ' preconditions' could be jettisoned. No longer was it necessary to count on a long historical process during which the middle class came to see its interests represented in the creation of a democratic state, no longer did a people have to painfully work out a social contract of tolerance for diversity and the institutions of limited government under the rule of law for democracy to take root. Examples as distinct as those of Spain, South Korea, Poland, and South Africa demonstrated that a liberal transformation could be made with astonishing speed and success. When combined, democratic peace theory and democratic transition theory achieved a volatile synergy that neither alone possessed. Peace theory argued that the world would benefit incalculably from the spread of democratic institutions, but it could not say that such a development was likely. Transition theory argued that rapid democratisation was possible, but it could not establish that such changes would much matter for world politics. Combined, however, the two concepts came to be the equivalent of a Kantian moral imperative to push what early in the Clinton years was called ' democratic enlargement' as far as Washington could while it possessed the status of the globe's sole superpower. The result would be nothing less than to change the character of world affairs that gave rise to war—international anarchy system and the character of authoritarian states—into an order of peace premised on the character of democratic governments and their association in multilateral communities basing their conduct on the rule of law that would increasingly have a global constitutional character. The arrogant presumption was, in short, that an aggressively liberal America suddenly had the possibility to change the character of History itself toward the reign of perpetual peace through democracy promotion. Enter the liberal jurists. In their hands a 'right to intervene' against states or in situations where gross and systematic human rights were being violated or weapons of mass destruction accumulated became a 'duty to intervene' in the name of what eventually became called a state 's 'responsibility to protect.' (lCISS 200 I). The meaning of 'sovereignty' was now transformed. Like pirate ships of old, authoritarian states could be attacked by what Secretary of State Madeleine Albright first dubbed a 'Community of Democracies', practicing ' muscular multilateralism' in order to reconstruct them around democratic values and institutions for the sake of world peace. What the jurists thus accomplished was the redefinition not only of the meaning of sovereignty but also that of 'Just War'. Imperialism to enforce the norms a state needed to honor under the terms of its 'responsibility to protect' (or 'R2P' as its partisans liked to phrase it) was now deemed legitimate. And by moving the locus of decision-making on the question of war outside the United Nations (whose Security Council could not be counted on to act to enforce the democratic code) to a League, or Community, or Concert of Democracies (the term varied according to the theorist), a call to arms for the sake of a democratising crusade was much more likely to succeed.

**Default to our evidence – they have a cognitive bias – soft power fails**

**Gray 11** [COLIN S. GRAY is Professor of International Politics and Strategic Studies at the University of Reading, England. He worked at the International Institute for Strategic Studies (London), and at Hudson Institute (Croton-on-Hudson, NY) before founding the National Institute for Public Policy, a defense-oriented think tank in the Washington, DC, area. Dr. Gray served for 5 years in the Reagan administration on the President’s General Advisory Committee on Arms Control and Disarmament. He has served as an adviser to both the U.S. and British governments (he has dual citizenship). His government work has included studies of nuclear strategy, arms control, maritime strategy, space strategy and the use of special forces. Dr. Gray has written 24 books, including: The Sheriff: America’s Defense of the New World Order (University Press of Kentucky, 2004); Another Bloody Century: Future Warfare (Weidenfeld and Nicolson, 2005); Strategy and History: Essays on Theory and Practice (Routledge, 2007; Potomac Books, 2009); National Security Dilemmas: Challenges and Opportunities (Potomac Books, 2009); and The Strategy Bridge: Theory for Practice (Oxford University Press, 2010). His next book will be Airpower for Strategic Effect. Dr. Gray is a graduate of the Universities of Manchester and Oxford.] April, HARD POWER AND SOFT POWER: THE UTILITY OF MILITARY FORCE AS AN INSTRUMENT OF POLICY IN THE 21ST CENTURY <http://www.strategicstudiesinstitute.army.mil/pdffiles/PUB1059.pdf>

Unfortunately, although the concept of American soft power is true gold in theory, in practice it is not so valuable. Ironically, the empirical truth behind the attractive concept is just sufficient to mislead policymakers and grand strategists. Not only do Americans want to believe that the soft power of their civilization and culture is truly potent, we are all but programmed by our enculturation to assume that the American story and its values do and should have what amounts to missionary merit that ought to be universal. American culture is so powerful a programmer that it can be difficult for Americans to empathize with, or even understand, the somewhat different values and their implications held deeply abroad. The idea is popular, even possibly authoritative, among Americans that ours is not just an “ordinary country,” but instead is a country both exceptionally blessed (by divine intent) and, as a consequence, exceptionally obliged to lead Mankind. When national exceptionalism is not merely a proposition, but is more akin to an iconic item of faith, it is difficult for usually balanced American minds to consider the potential of their soft power without rose-tinted spectacles. And the problem is that they are somewhat correct. American values, broadly speaking “the American way,” to hazard a large project in reductionism, are indeed attractive beyond America’s frontiers and have some utility for U.S. policy. But there are serious limitations to the worth of the concept of soft power, especially as it might be thought of as an instrument of policy. To date, the idea of soft power has not been subjected to a sufficiently critical forensic examination. In particular, the relation of the soft power of attraction and persuasion to the hard power of coercion urgently requires more rigorous examination than it has received thus far.

**The way we frame our policies matters – politics is about unconscious moral values which are created and maintained through rhetoric. Justification matters for effective policymaking**

**Rockridge Institute 07** [“Frames and Framing,” progressive think tank that uses neuroscience and cognitive linguistics to shape argument form and phrasing for progressive values, former website: rockridge institute.org/aboutus/frames-and-framing/index.html, link not active currently]

Expressing progressive political ideas and values effectively begins with understanding frames. Frames are the mental structures that allow human beings to understand reality – and sometimes to create what we take to be reality. Contemporary research on the brain and the mind has shown that most thought – most of what the brain does – is below the level of consciousness, and these unconscious thoughts frame conscious thought in ways that are not obvious. These mental structures, or frames, **appear in and operate through the words we use to discuss the world around us, including politics**. Frames simultaneously shape our thinking and language at multiple levels – the level of moral values, the level of political principles, the level of issue areas (e.g., the environment), the level of a single issue (e.g., the climate crisis), and the level of specific policy (e.g., cap-and-auction). **Successful political arguments depend as much on a well-articulated moral frame as they do on policy details – often more**. The most effective political messages are those that clearly and coherently link an issue area, single issue, or specific policy to fundamental moral values and political principle frames. Rockridge is the only progressive think tank that takes such a comprehensive view of framing and messaging. The primary determinant of how someone thinks about politics is what we refer to as their fundamental moral frame or their moral worldview. Progressive politics is about morality, about doing what is right. That moral frame is not always obvious, yet it can be stated simply: Progressives care about people and the earth, and act responsibly on that sense of care. All other progressive values – freedom, fairness, equality, security, opportunity, honesty, community, and all the rest – flow from that basic moral understanding of how people should act in the world. Conservatives have been more effective than progressives at getting their worldview, or moral frame, into public discourse. So effective, that progressives all too often adopt conservative frames – as members of Congress did in adopting the President’s “unitary executive” frame which defined Congress as responsible for carrying out his mission – and thus primarily responsible for the safety of the troops. Congress may argue against the President’s Iraq policy, but when they do so using his words, and thus his fundamental moral frame, they put themselves at a distinct disadvantage. It is nearly impossible to persuasively present a progressive policy using conservative language and frames. The debate on the U.S. response to 9/11 is a great example of how frames work. The phrases “war on terror” and “crimes against humanity” use different words to frame the same issue and, in doing so, evoke different ideas and guide us toward different actions. The phrase “war on terror” frames the issue as an open-ended military action against a vague, indeterminate enemy, with open-ended war powers given to the President for an indefinite period. “Crimes against humanity” frames our response to 9/11 as a police action where international law enforcement agencies are directed to root out groups and individual criminals using many of the same methods effective against crime syndicates. Further, **these phrases trigger related moral and political principle frames deep in our unconscious minds, shaping how we experience our relationships to our political leaders and to people in other countries**. “War” triggers fundamental moral and political principle frames that evoke an evil world in which we must look to an authoritarian President as commander-in-chief, whose orders we obey in order to protect our entire society from destruction by foreign enemies. With these frames dominating our thinking, we are more likely to tolerate giving up some of our civil liberties and dropping bombs that kill innocent civilians. By contrast, “crimes against humanity,” as both a word and issue frame, triggers deep moral and political principle frames of an interdependent world where dangers occur, but they are not debilitating. With this frame foremost in our minds, we are more likely to protect society by enlisting the police, while also reaching out to our neighbors, who are suffering in other countries where poverty, disease, and opposition make it more likely that people will become terrorists. The persistent repetition of the “war on terror” word and issue frame triggers and reinforces deep moral and political principle frames. So, even when someone opposes the Iraq policy, they often do it by invoking the frame they wish to negate. This is why Americans who want to shift the ideas underlying American political debate – towards a greater emphasis on the values of empathy, social responsibility, fairness, honesty, integrity, and community – must do so by changing the deep moral and political principle frames that we use in thinking. We do this in large part by stating these frames openly and often. In other words, it is nearly impossible to persuasively articulate a law enforcement policy on Iraq when one is continually using the phrase “war on terror.” Frames matter. Our fundamental moral frame, our worldview, determines how we experience and think about every aspect of our lives, from child rearing to healthcare, from public transportation to national security, from religion to love of country. Yet, people are typically unconscious of how their fundamental moral frames shape their political positions. The Rockridge Institute works to make that thinking more explicit in order to improve political debate.

**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.

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#### Extra Topicality – they can talk about any authority un-related to war powers authority –that multiplies the case list by infinity

Huldah 11 (Pubulis, Publius Huldah is a retired litigation attorney who now lives in Tennessee. Before getting a law degree, she got a degree in philosophy where she specialized in political philosophy and epistemology, “The President’s Enumerated Powers, Rulemaking by Executive Agencies, & Executive Orders.”, <http://publiushuldah.wordpress.com/2011/08/30/the-presidents-enumerated-powers-rulemaking-by-executive-agencies-executive-orders/>)

What are the Enumerated Powers of the President?

The powers of the President are “carefully limited” and precisely defined by our Constitution. In Federalist Paper No. 71 (last para), Alexander Hamilton asks,

…what would be … feared from an elective magistrate of four years’ duration, with the confined authorities of a President of the United States?…[emphasis added] 2

The answer to Hamilton’s question is this: There would be nothing to fear if Presidents obeyed the Constitution. But they don’t obey it because the dolts in Congress don’t make them obey it!

Well, then! Here is the complete list of the President’s enumerated powers:

Art. I, Sec. 7, cls. 2 & 3, grants to the President the power to approve or veto Bills and Resolutions passed by Congress.

Art. I, Sec. 9, next to last clause, grants to the executive Branch – the Treasury Department – the power to write checks pursuant to Appropriations made by law – i.e., by Congress.

Art. II, Sec. 1, cl.1, vests “executive Power” [see below] in the President.

Art. II, Sec. 1, last clause, sets forth the President’s Oath of Office – to “preserve, protect and defend the Constitution of the United States”.

Art. II, Sec. 2, cl.1: makes the President Commander in Chief of the armed forces when they have been called by Congress into the actual service of the United States. 3authorizes the President to require the principal Officers in the executive Departments to provide written Opinions upon the Duties of their Offices.grants the President power to grant Reprieves and Pardons for offenses against the United States, 4 but he can not stop impeachments of any federal judge or federal officer.

Article II, Sec. 2, cl. 2 grants to the President the power: to make Treaties – with the advice and consent of the Senate. 5 to nominate Ambassadors, other public ministers and Consuls, federal judges, and various other officers – with the advice and consent of the Senate.

Article II, Sec. 2, cl. 3 grants to the President the power to make recess appointments, which expire at the end of Congress’ next session.

Art. II, Sec. 3: Imposes the duty on the President to periodically advise Congress on the State of the Union, and authorizes the President to recommend to Congress such measures as he deems wise.

Authorizes the President, on extraordinary Occasions, to convene one or both houses of Congress [e.g., when he asks Congress to declare War]; and if both houses can not agree on when to adjourn, he is authorized to adjourn them to such time as he deems proper.

Imposes the duty upon the President to receive Ambassadors and other public Ministers.

Imposes the duty upon the President to take care that the Laws be faithfully executed, and

Imposes the duty upon the President to Commission all the Officers of the United States.

That’s it! Anything else the President does is unlawful and a usurpation of powers not granted.

 What is the “executive Power”?

So! The granting of the “executive Power” to the President is not a blank check giving him power to do whatever he wants. The “executive Power” is merely the power to put into effect – to implement – those Acts of Congress which are within Congress’ enumerated powers. Thus, if Congress establishes “an uniform Rule of Naturalization” (as authorized by Art. I, Sec. 8, cl. 4), it is the President’s duty to implement and enforce the law Congress makes. The President is to carry out – to execute – Acts of Congress.

But note well: His Oath of Office – to “preserve, protect and defend the Constitution”, shows that the President must use his independent judgment 6 as to which acts of Congress are and are not constitutional. Thus, as shown in this paper, “The Oath Of Office: The Check On Usurpations By Congress, The Executive Branch, & Federal Judges“, the President has the duty, imposed by his Oath, to act as a “check” on Congress (and on federal courts, as well).

Accordingly, when Congress makes a “law” which is not authorized by the Constitution, it

…would not be the supreme law of the land, but a usurpation of power not granted by the Constitution”… Federalist No. 33 (last two paras); 7

and since the President’s Oath requires him to “preserve, protect and defend the Constitution“, the President must refuse to enforce an unconstitutional “law” made by Congress. Otherwise, he’d be in collusion with the legislative branch to usurp power over The People. 8

So, then! Acting as a check on Congress (and federal courts) by refusing to enforce unconstitutional “laws” (and opinions), as well as the duty of entertaining foreign dignitaries, are the only occasions where the President may act alone. His prime responsibility is to do what Congress tells him.

Article I, Sec. 1 & The Unconstitutional Administrative Law State

Now, you must learn of “administrative law” – i.e., rulemaking by Executive Agencies. 9

Article I, Sec.1, U.S. Constitution, says:

All legislative Powers herein granted shall be vested in a Congress of the United States.

That little phrase is of immense importance. It means what it says, that only Congress may make laws: laws are to be made only by Representatives whom we can fire every two years, and by Senators whom we can fire every six years.

But in Joseph Postell’s “must read” paper, “Constitution in Decline“, he shows that during the administration of the nefarious Woodrow Wilson, Congress began delegating its lawmaking powers to agencies within the Executive Branch. Since then, Congress passes an overall legislative scheme, and delegates the details to be written by un-elected, un-accountable bureaucrats in the various Executive Agencies. They write the “administrative rules” which implement the Legislation. The result is the execrable Code of Federal Regulations (CFR), which is accepted, by the indoctrinated members of my profession, as “law”. Go here to see the abominable CFR.

May the President Lawfully Make “Executive Orders”?

The Guiding Principle is this: The President has no authority to do ANYTHING apart from constitutional authority or statutory authority (assuming the statute itself is constitutional).

1. So! Respecting those matters within his constitutional authority & duties, and authority & duties imposed by constitutional statutes, the President may make “orders” – call them “executive orders” if you like.

For example: It is the President’s constitutional duty “to take care that the Laws be faithfully executed”. Thus, he has the duty to enforce [constitutional] laws made by Congress. How does he enforce the laws? Sometimes, by means of “orders”.

To illustrate: Say Congress makes a law, as authorized by Art. I, Sec. 8, clause 6, making it a felony to counterfeit the Securities and current Coin of the United States. If U.S. Attorneys are not prosecuting counterfeiters, the President should “order” them to do it. Or fire them.

But say Congress makes a law which purports to make possession of shotguns shorter than 18 inches a crime. Since the President’s Oath requires him to “preserve, protect and defend the Constitution”, he is obligated to “order” the U.S. Attorney General and the U.S. Attorneys to refuse to prosecute anyone for possession of sawed-off shotguns. Why? Because such a “law” is unconstitutional as outside the scope of the legislative powers granted to Congress in Our Constitution. It also violates the Second Amendment.

Clearly, such an order to refuse prosecution falls within the President’s constitutional duties (enforce the Constitution), and he is giving an order to people within the Executive Branch. The President is the one who is charged with carrying out the Acts of Congress – he has the “executive Power”. But because of his Oath, he may not carry out unconstitutional “laws”. That is one of the checks on Congress.

The President may also properly make orders addressing housekeeping issues within the Executive Branch: Dress codes, no smoking or drinking on the job, he may encourage executive agencies to hire qualified handicapped people, and the like. Just as if you have a business, you may make orders addressing such matters.

So! Do you see? The President may lawfully make orders to carry out his constitutionally imposed powers and duties, and powers bestowed by statutes which are constitutional; and he may address “housekeeping” issues within the Executive Branch.

2. But a President may not lawfully, by means of “orders”, exercise powers not delegated to him by the Constitution or by (constitutional) Acts of Congress.

Yet Obama has issued various executive orders which are unlawful because they are not authorized by the Constitution or by (constitutional) Acts of Congress. Here are two executive orders which are particularly pernicious because they undermine our foundational Principle of “Federalism”, and have as their object the “improper consolidation of the States into one … republic.”: 10

E.O.13575 – Establishment of the White House Rural Council: This E.O. provides for over 25 federal departments & agencies to run every aspect of rural life!

E.O. Establishing Council of Governors: The effect of this E.O. is to erase the Independence and Sovereignty of the States and consolidate us into a national system under the boot of the Executive Branch.

#### 2. Nope. Other authority has been removed – immigration is the fallback

Hernandez 11 (Ernesto A. Hernandez, Chapman University School of Law Professor of Law, “Kiyemba, Guantanamo, and Immigration Law: An Extraterritorial Constitution in a Plenary Power World”, Available at: <http://works.bepress.com/ernesto_hernandez/17>)

Immigration law doctrine provides a fallback in the form of an established set of legal tools to exclude foreign nationals, even after the Supreme Court found that significant constitutional and extraterritorial checks apply to these Guantánamo detentions.13 This fallback quality of immigration law now stands out, after three Supreme Court cases since 2004 have checked the Guantánamo detention program14 and detainees have won a majority of petitions for habeas release since Boumediene.15 The Kiyemba detainees,16 Yusef Abbas, Hajiakbar Abdulghupur, Saidullah Khalik, Ahmed Mohamed, and Abdul Razak,17 share similar identities with Chae Chan Ping,18 Ignatz Mezei,19 and Kestutis Zadvydas,20 the aliens in leading immigration cases. The detention or exclusion of these noncitizens is primarily justified by the plenary powers doctrine, while constitutional arguments in favor of release has proven ineffective. The plenary powers doctrine has kept the Uighurs detained for nine years. By framing legal issues, immigration law precludes habeas relief. The Uighurs’ detention is illegal, but release is not required by law, even after nine years and habeas approval.21

#### Immigration laws bar admission, not war powers

Gartenstein-Ross, ’10 [Daveed Gartenstein-Ross is an American counter-terrorism scholar and analyst. He is the Director of the Center for the Study of Terrorist Radicalization at the Foundation for Defense of Democracies, a Washington-based think tank. “Government Files Responsive Motion in Kiyemba Uighur Litigation”, The Weekly Standard. http://m.weeklystandard.com/blogs/government-files-responsive-motion-kiyemba-uighur-litigation]

The United States Court of Appeals for the D.C. Circuit is now considering the case of several Uighurs, currently detained at Gitmo, who are asking to be released into the Washington metropolitan area. The D.C. Circuit has already ruled against the Uighurs once, affirming the government’s power to exclude them from the country because immigration law bars the admission of aliens that the government reasonably suspects of engaging in certain terrorism-related activities. (In this case, the Uighurs received military training at a camp in Tora Bora, or supported the camp). When I wrote about this case two weeks ago, the Uighurs had submitted a brief urging the litigation to be sent to the district court for further factual development, and the government had not yet filed a responsive brief. The government’s brief was filed last week.

The Uighurs, it is worth recalling, initially were held in military detention in Gitmo as enemy combatants, but in 2008 the U.S. agreed that they should no longer be designated as such. Pursuant to established policy, the Uighurs will not be returned to China due to concerns that they would face torture. Thus, the issue in the Kiyemba litigation has been whether the detainees should be released into the United States. After the D.C. Circuit’s first ruling against the Uighurs, the U.S. Supreme Court granted certiorari. However, the Obama administration was subsequently able to ensure that all the detainees originally part of the litigation were either resettled in third countries, had accepted offers of resettlement, or received but declined such offers. This caused the Supreme Court to vacate the D.C. Circuit’s judgment and remand the case for determination of “what further proceedings … are necessary and appropriate for the full and prompt disposition of the case in light of the new developments.”

The fact that the Uighurs would like the case before the district court makes sense; after all, the district court found that they were entitled to release in the U.S. before its decision was overruled by the D.C. Circuit. When I last wrote about this case, I predicted that the government’s brief would “argue that factual developments in the case are immaterial to what the D.C. Circuit said in its previous decision, and to urge the circuit court to reaffirm that opinion.”

The Government did indeed make this argument, urging the D.C. Circuit to reinstate its own prior decision. The reasoning is simple, since the detainees’ refusal of offers of resettlement overseas does nothing but make their case less compelling than before, when the D.C. Circuit rejected it the first time. As the Government’s brief states:

If an alien who has not been offered resettlement elsewhere has no right to be brought into the United States for release outside the framework of immigration laws, as this Court held, then a fortiori an alien who has been offered resettlement opportunities but turned them down has no such right.

#### **It’s immigration**

Vaughns, ’13 [Katherine L., Professor of Law, University of Maryland Francis King Carey School of Law. “Of Civil Wrongs and Rights: Kiyemba v. Obama and the Meaning of Freedom, Separation of Powers, and the Rule of Law Ten Years After 9/11”. Asian American Law Journal 20:7]

This Article considers the ramifications of the Kiyemba litigation, focusing particularly on what the case means to our understanding of the rule of law more than ten years after September 11. This Article makes three primary arguments: First, although the Supreme Court provided Guantanamo Bay detainees access to U.S. courts through the writ of habeas corpus, it has failed to provide a meaningful remedy for habeas petitioners, despite ample constitutional and doctrinal authority for doing so. This rights-remedy gap is problematic from a rule of law standpoint, and the gap is well illustrated by the Kiyemba litigation.8 Second, the Court’s failure to consider the merits of the case, thus allowing a problematic lower court opinion to stand, has perpetuated confusion in a doctrinal area of constitutional, political, and rhetorical significance. A dissent to the per curiam dismissal would, at the very least, have served the significant purpose of articulating core constitutional values. Finally, the D.C. Circuit’s application of immigration law to the habeas remedy question in its reinstated opinion in Kiyemba v. Obama9 effectively trumps the detainees’ constitutional right to obtain release by substituting immigration law’s doctrinally exceptional deference to the Executive for what long has been understood as the core function of habeas corpus: undoing illegal detention by the Executive.

#### immigration authority is not war powers authority – their IRLI evidence says that the president can use either war powers or immigration authority to exclude foreigners but certainly that there is a distinction between the two -- here’s a re-reading

**IRLI 10** [Immigration Reform Law Institute]

(MOTION FOR LEAVE TO FILE BRIEF OUT OF TIME AND BRIEF OF AMICUS CURIAE IMMIGRATION REFORM LAW INSTITUTE IN SUPPORT OF RESPONDENTS, www.americanbar.org/content/dam/aba/publishing/preview/publiced\_preview\_briefs\_pdfs\_09\_10\_08\_1234\_RespondentAmCuIRLAmotion.authcheckdam.pdf)

The question presented is whether **the Executive Branch has the authority to exclude, expel, and detain foreigners,** in accordance with the immigration laws as prescribed by Congress and **through the Executive’s war power.** The plenary power of the political branches to exclude and expel foreigners from the United States has been recognized by the Court for over a century. Chae Chan Ping v. United States, 130 U.S. 581, 609 (1889); Bridges v. Wixon, 326 U.S. 135, 161 (1945) (“[Because] an alien . . . brings with him no constitutional rights, Congress may exclude him in the first instance for whatever reason it sees fit”). It is a power that is inherent within each nation’s sovereignty, and can only be limited by treaty, statute, or some other express constitutional limitation. Fong Yue Ting v. United States, 149 U.S. 698, 705 (1893); Kleindienst v. Mandel, 408 U.S. 753, 765-66 (1972) Should the Court grant Petitioners habeas corpus relief, Petitioners cannot seek the remedy of admission into the territorial United States. It is well established that Congress sets the laws by which the Executive Branch may exclude foreigners from entering this country. Harisiades v. Shaughnessy, 342, U.S. 580, 588-89 (1952) (“It is pertinent to observe that any policy towards aliens is vitally and intricately interwoven with contemporaneous policies in regard to the conduct of foreign relations, the war power, and the maintenance of a republican form of government. Such matters are so exclusively entrusted to the political branches of government as to be largely immune from judicial inquiry or inference”). However, **the Executive Branch may** also **exclude foreigners in the interests of national security under the war power** and in the interests of self-preservation of government. **The Executive’s power to exercise such exclusion does not require war, for any “internal dangers short of war . . . may lead to its use**” that are within the constraints prescribed by Congress. Id. at 518.

#### 1. Other authority has been removed – immigration is the fallback

Hernandez 11 (Ernesto A. Hernandez, Chapman University School of Law Professor of Law, “Kiyemba, Guantanamo, and Immigration Law: An Extraterritorial Constitution in a Plenary Power World”, Available at: <http://works.bepress.com/ernesto_hernandez/17>)

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