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**Obama will win the debt ceiling fight – strength and resolve are key to forcing the GOP to bend**

**POLITICO 10 – 1** – 13 [“Government shutdown: President Obama holds the line” <http://www.politico.com/story/2013/10/government-shutdown-president-obama-holds-the-line-97646.html?hp=f3>]

President Barack Obama started September in an agonizing, extended display of how little sway he had in Congress. He ended the month with a **display of resolve and strength** that could redefine his presidency. All it took was a government shutdown. This was less a White House strategy than simply staying in the corner the House GOP had painted them into — to the White House’s surprise, Obama was forced to do what he so rarely has as president: he said no, and he didn’t stop saying no. For two weeks ahead of Monday night’s deadline, Obama and aides rebuffed the efforts to kill Obamacare with the kind of firm, narrow sales pitch they struggled with in three years of trying to convince people the law should exist in the first place. There was no litany of doomsday scenarios that didn’t quite come true, like in the run-up to the fiscal cliff and the sequester. No leaked plans or musings in front of the cameras about Democratic priorities he might sacrifice to score a deal. After five years of what’s often seen as Obama’s desperation to negotiate — to the fury of his liberal base and the frustration of party leaders who argue that he negotiates against himself. Even his signature health care law came with significant compromises in Congress. Instead, over and over and over again, Obama delivered the simple line: Republicans want to repeal a law that was passed and upheld by the Supreme Court — to give people health insurance — or they’ll do something that everyone outside the GOP caucus meetings, including Wall Street bankers, seems to agree would be a ridiculous risk. “If we lock these Americans out of affordable health care for one more year,” Obama said Monday afternoon as he listed examples of people who would enjoy better treatment under Obamacare, “if we sacrifice the health care of millions of Americans — then they’ll fund the government for a couple more months. Does anybody truly believe that we won’t have this fight again in a couple more months? Even at Christmas?” The president and his advisers weren’t expecting this level of Republican melee, a White House official said. Only during Sen. Ted Cruz’s (R-Texas) 21-hour floor speech last week did the realization roll through the West Wing that they wouldn’t be negotiating because they couldn’t figure out anymore whom to negotiate with. And even then, they didn’t believe the shutdown was really going to happen until Saturday night, when the House voted again to strip Obamacare funding. This wasn’t a credible position, Obama said again Monday afternoon, but rather, bowing to “extraneous and controversial demands” which are “all to save face after making some impossible promises to the extreme right wing of their political party.” Obama and aides have said repeatedly that they’re not thinking about the shutdown in terms of political gain, but the situation’s is taking shape for them. Congress’s approval on dealing with the shutdown was at 10 percent even before the shutters started coming down on Monday according to a new CNN/ORC poll, with 69 percent of people saying the House Republicans are acting like “spoiled children.” “The Republicans are making themselves so radioactive that the president and Democrats can win this debate in the court of public opinion” **by waiting them out**, said Jim Manley, a Democratic strategist and former aide to Senate Majority Leader Harry Reid who has previously been critical of Obama’s tactics. Democratic pollster Stan Greenberg said the Obama White House learned from the 2011 debt ceiling standoff, when it demoralized fellow Democrats, deflated Obama’s approval ratings and got nothing substantive from the negotiations. “They didn’t gain anything from that approach,” Greenberg said. “I think that there’s a lot they learned from what happened the last time they ran up against the debt ceiling.” While the Republicans have been at war with each other, the White House has proceeded calmly — a breakthrough phone call with Iranian President Hassan Rouhani Friday that showed him getting things done (with the conveniently implied juxtaposition that Tehran is easier to negotiate with than the GOP conference), his regular golf game Saturday and a cordial meeting Monday with his old sparring partner Israeli Prime Minister Benjamin Netanyahu. White House press secretary Jay Carney said Monday that the shutdown wasn’t really affecting much of anything. “It’s busy, but it’s always busy here,” Carney said. “It’s busy for most of you covering this White House, any White House. We’re very much focused on making sure that the implementation of the Affordable Care Act continues.” Obama called all four congressional leaders Monday evening — including Boehner, whose staff spent Friday needling reporters to point out that the president hadn’t called for a week. According to both the White House and Boehner’s office, the call was an exchange of well-worn talking points, and changed nothing. Manley advised Obama to make sure people continue to see Boehner and the House Republicans as the problem and not rush into any more negotiations until public outrage **forces them to bend.** “He may want to do a little outreach, but not until the House drives the country over the cliff,” Manley said Monday, before the shutdown. “Once the House has driven the country over the cliff and failed to fund the government, then it might be time to make a move.” The White House believes Obama will take less than half the blame for a shutdown – with the rest heaped on congressional Republicans. The divide is clear in a Gallup poll also out Monday: over 70 percent of self-identifying Republicans and Democrats each say their guys are the ones acting responsibly, while just 9 percent for both say the other side is. If Obama is able to turn public opinion against Republicans, the GOP won’t be able to turn the blame back on Obama, Greenberg said. “Things only get worse once things begin to move in a particular direction,” he said. “They don’t suddenly start going the other way as people rethink this.”

**Plan kills Obama’s agenda**

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

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

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

**Losing military authority will embolden the GOP to fight on the debt ceiling**

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

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

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

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

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

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

**Destroys the global economy**

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

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

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

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

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

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

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

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

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

**Global nuke wars**

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

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

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

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

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

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

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

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

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

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

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

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

**1NC CP**

#### Text: The Office of Legal Counsel should determine that the Executive Branch lacks the legal authority to indefinitely detain on the grounds that executive indefinite detention violates the Suspension Clause.

#### The Office of Legal Counsel should ban foreign arm sales and conflict without an imminent threat.

#### The President should require the Office of Legal Counsel to publish any legal opinions regarding policies adopted by the Executive Branch.

#### 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.

# Drones

### 1NC DA—Drone Shift

# Abstention

#### Judicial involvement in war power authority debates turns and escalates every impact

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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.

#### Effective fast response and mission planning is key to deterring every conflict globally

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We live at a time when wars not only rage in nearly every region but threaten to erupt in many places where the current relative calm is tenuous. To view this as a strategic military challenge for the United States is not to espouse a specific theory of America’s role in the world or a certain political philosophy. Such an assessment flows directly from the basic bipartisan view of American foreign policy makers since World War II that overseas threats must be countered before they can directly threaten this country’s shores, that the basic stability of the international system is essential to American peace and prosperity, and that no country besides the United States is in a position to lead the way in countering major challenges to the global order. Let us highlight the threats and their consequences with a few concrete examples, emphasizing those that involve key strategic regions of the world such as the Persian Gulf and East Asia, or key potential threats to American security, such as the spread of nuclear weapons and the strengthening of the global Al Qaeda/jihadist movement. The Iranian government has rejected a series of international demands to halt its efforts at enriching uranium and submit to international inspections. What will happen if the US—or Israeli—government becomes convinced that Tehran is on the verge of fielding a nuclear weapon? North Korea, of course, has already done so, and the ripple effects are beginning to spread. Japan’s recent election to supreme power of a leader who has promised to rewrite that country’s constitution to support increased armed forces—and, possibly, even nuclear weapons— may well alter the delicate balance of fear in Northeast Asia fundamentally and rapidly. Also, in the background, at least for now, Sino Taiwanese tensions continue to flare, as do tensions between India and Pakistan, Pakistan and Afghanistan, Venezuela and the United States, and so on. Meanwhile, the world’s nonintervention in Darfur troubles consciences from Europe to America’s Bible Belt to its bastions of liberalism, yet with no serious international forces on offer, the bloodletting will probably, tragically, continue unabated. And as bad as things are in Iraq today, they could get worse. What would happen if the key Shiite figure, Ali al Sistani, were to die? If another major attack on the scale of the Golden Mosque bombing hit either side (or, perhaps, both sides at the same time)? Such deterioration might convince many Americans that the war there truly was lost—but the costs of reaching such a conclusion would be enormous. Afghanistan is somewhat more stable for the moment, although a major Taliban offensive appears to be in the offing.

Sound US grand strategy must proceed from the recognition that, over the next few years and decades, the world is going to be a very unsettled and quite dangerous place, with Al Qaeda and its associated groups as a subset of a much larger set of worries. The only serious response to this international environment is to develop armed forces capable of protecting America’s vital interests throughout this dangerous time. Doing so requires a military capable of a wide range of missions—including not only deterrence of great power conflict in dealing with potential hotspots in Korea, the Taiwan Strait, and the Persian Gulf but also associated with a variety of Special Forces activities and stabilization operations. For today’s US military, which already excels at high technology and is increasingly focused on re-learning the lost art of counterinsurgency, this is first and foremost a question of finding the resources to field a large-enough standing Army and Marine Corps to handle personnel intensive missions such as the ones now under way in Iraq and Afghanistan. Let us hope there will be no such large-scale missions for a while. But preparing for the possibility, while doing whatever we can at this late hour to relieve the pressure on our soldiers and Marines in ongoing operations, is prudent. At worst, the only potential downside to a major program to strengthen the military is the possibility of spending a bit too much money. Recent history shows no link between having a larger military and its overuse; indeed, Ronald Reagan’s time in office was characterized by higher defense budgets and yet much less use of the military, an outcome for which we can hope in the coming years, but hardly guarantee. While the authors disagree between ourselves about proper increases in the size and cost of the military (with O’Hanlon preferring to hold defense to roughly 4 percent of GDP and seeing ground forces increase by a total of perhaps 100,000, and Kagan willing to devote at least 5 percent of GDP to defense as in the Reagan years and increase the Army by at least 250,000), we agree on the need to start expanding ground force capabilities by at least 25,000 a year immediately. Such a measure is not only prudent, it is also badly overdue.

#### No reverse causal internal link – their ev doesn’t say courts will reverse arms sales and the asia pivot. They obvi don’t solve MIC

#### Arms sales prevent conflcit

Doug **Bandow**, 1/11/**10** – senior fellow at the CATO institute (“Guns for Peace”. CATO. <http://www.cato.org/pub_display.php?pub_id=11119> )

Selling needed arms also is a far better option than intervening militarily in any conflict. It will cost the PRC far less to build a deterrent capability than it will cost the United States to maintain sufficient forces to overwhelm Beijing. To simply presume that China, with far more at stake than America, will forever back down would be a wild and wildly dangerous gamble. Whether Chinese concerns are driven more by nationalist passions or geostrategic concerns, the more direct Washington's involvement, the more determined Beijing's likely response. From the PRC's standpoint, arms sales, though undesirable, are less threatening than an alliance relationship, whether explicit or implicit. America should not be expected to risk major war with nuclear powers to protect other states, however friendly or democratic. However, Washington can help other states defend themselves. Selling weapons to Taiwan will empower the island state without inserting the United States into any cross-strait crossfire.

#### No Russia impact – Klare says arms sales are a step to a cold war – not that it results in conflict.

**No Russia war**

**Bandow 08** (Doug, former senior fellow at the Cato Institute and former columnist with Copley News Service, 3/“Turning China into the Next Big Enemy.” http://www.antiwar.com/bandow/?articleid=12472)

In fact, America remains a military colossus. The Bush administration has proposed spending $515 billion next year on the military; more, adjusted for inflation, than at any time since World War II. The U.S. accounts for roughly half of the world's military outlays. Washington is allied with every major industrialized state except China and Russia. America's avowed enemies are a pitiful few: Burma, Cuba, Syria, Venezuela, Iran, North Korea. The U.S. government could destroy every one of these states with a flick of the president's wrist. Russia has become rather contentious of late, but that hardly makes it an enemy. Moreover, the idea that Moscow could rearm, reconquer the nations that once were part of the Soviet Union or communist satellites, overrun Western Europe, and then attack the U.S. – without anyone in America noticing the threat along the way – is, well, a paranoid fantasy more extreme than the usual science fiction plot. The Leninist Humpty-Dumpty has fallen off the wall and even a bunch of former KGB agents aren't going to be able to put him back together.

#### No Asia wars -- international organizations and stability.

**Desker, ‘8**

[Barry, Dean of the S Rajaratnam School of International Studies, At the IISS-JIIA Conference 2-4 June 2008, “Why War is Unlikely in Asia: Facing the Challenge from China”, <http://www.iiss.org/conferences/asias-strategic-challenges-in-search-of-a-common-agenda/conference-papers/why-war-in-asia-remains-unlikely-barry-desker/>]

War in Asia is thinkable but it is unlikely. The Asia-Pacific region can, paradoxically, be regarded as a zone both of relative insecurity and of relative strategic stability**.** On the one hand, the region contains some of the world’s most significant flashpoints – the Korean peninsula, the Taiwan Strait, the Siachen glacier – where **tensions** between nations could escalateto the point of resulting in a major war. The region is replete with border issues, the site of acts of terrorism (the Bali bombings, Manila superferry bombing, Kashmir, etc.), and it is an area of overlapping maritime claims (the Spratly Islands, Diaoyutai islands, etc). Finally, the Asia-Pacific is an area of strategic significance, sitting astride key sea lines of communication (SLOCS) and important chokepoints. Nevertheless, the Asia-Pacific region ismore stablethan one might believe. Separatism remains a challenge but the break-up of states is unlikely. Terrorism is a nuisance but its impact is contained. The North Korean nuclear issue, while not fully resolved, is at least moving toward a conclusionwith the likely denuclearization of the peninsula. Tensions between China and Taiwan, while always just beneath the surface, seem unlikely to erupt in open conflict (especially after the KMT victories in Taiwan). The region also possesses significant multilateral structures such as the Asia-Pacific Economic Cooperation (APEC) forum, the Shanghai Cooperation Organization (SCO), the nascent Six Party Talks forum and, in particular, ASEAN, and institutions such as the EAs, ASEAN + 3, ARF which ASEAN has conceived. Although the United States has been the hegemon in the Asia-Pacific since the end of World War II, it will probably not remain the dominant presence in the region over the next 25 years. A rising China will pose the critical foreign policy challenge, probably more difficult than the challenge posed by the Soviet Union during the Cold War. This development will lead to the most profound change in the strategic environment of the Asia-Pacific. On the other hand, the rise of China does not automatically mean that conflict is more likely. First, the emergence of a more assertive China does not mean a more aggressive China. Beijing appears content to press its claims peacefully (if forcefully), through existing avenues and institutions of international relations. Second, when we look more closely at the Chinese military buildup, we find that there may be less than some might have us believe, and thatthe Chinese war machine is not quite as threatening – as some might argue. Instead of Washington perspectives shaping Asia-Pacific affairs, the rise of China is likely to see a new paradigm in international affairs – the “Beijing Consensus” – founded on the leadership role of the authoritarian party state, a technocratic approach to governance, the significance of social rights and obligations, a reassertion of the principles of national sovereignty and non-interference, coupled with support for freer markets and stronger regional and international institutions. The emphasis is on good governance. Japan fits easily in this paradigm. Just as Western dominance in the past century led to Western ideas shaping international institutions and global values, Asian leaders and Asian thinkers will increasingly participate in and shape the global discourse, whether it is on the role of international institutions, the rules governing international trade or the doctrines which under-gird responses to humanitarian crises. An emerging Beijing Consensus is not premised on the rise of the ‘East’ and decline of the ‘West’, as sometimes seemed to be the sub-text of the earlier Asian values debate. I do not share the triumphalism of my friends Kishore Mahbubani and Tommy Koh. However, like the Asian values debate, this new debate reflects alternative philosophical traditions. The issue is the appropriate balance between the rights of the individual and those of the state. This debate will highlight the shared identity and shared values between China and the states in the region. I do not agree with those in the US who argue that Sino-US competition will result in “intense security competition with considerable potential for war” in which most of China’s neighbours “will join with the United States to contain China’s power.”[1] These shared values are likely to reduce the risk of conflict and result in regional pressure for an accommodation with China and the adoption of policies of engagement with China, rather than confrontation with an emerging China. China is increasingly economically inter-dependent, part of a network of over-lapping cooperative regional institutions. In Asia, the focus is on economic growth and facilitating China’s integration into regional and global affairs. An interesting feature is that in China’s interactions with states in the region, China is beginning to be interested in issues of proper governance, the development of domestic institutions and the strengthening of regional institutional mechanisms. Chinese policy is not unchanging, even on the issue of sovereignty. For example, there has been an evolution in Chinese thinking on the question of freedom of passage through the Straits of Malacca and Singapore. While China supported the claims of the littoral states to sovereign control over the Straits when the Law of the Sea Convention was concluded in 1982, China’s increasing dependence on imported oil shipped through the Straits has led to a shift in favour of burden-sharing, the recognition of the rights of user states and the need for cooperation between littoral states and user states. Engagement as part of global and regional institutions has resulted in revisions to China’s earlier advocacy of strict non-intervention and non-interference. Recent Chinese support for global initiatives in peace-keeping, disaster relief, counter-terrorism, nuclear non-proliferation and anti-drug trafficking, its lack of resort to the use of its veto as a permanent member of the UN Security Council and its active role within the World Trade Organisation participation in global institutions can be influential in shaping perceptions of a rising China. Beijing has greatly lowered the tone and rhetoric of its strategic competition with the United States**,** actions which have gone a long way toward reassuring the countries of Southeast Asia of China’s sincerity in pursuing a non-confrontational foreign and security strategy. Beijing’s approach is significant as most Southeast Asian states prefer not to have to choose between alignment with the US and alignment with China and have adopted ‘hedging’ strategies in their relationships with the two powers. Beijing now adopts a more subtle approach towards the United States: not directly challenging US leadership in Asia, partnering with Washington where the two countries have shared interests, and, above all, promoting multilateral security processes that, in turn, constrain US power, influence and hegemony in the Asia-Pacific. The People’s Liberation Army (PLA) is certainly in the midst of perhaps the most ambitious upgrading of its combat capabilities since the early 1960s, and it is adding both quantitatively and qualitatively to its arsenal of military equipment. Its current national defence doctrine is centered on the ability to fight “Limited Local Wars”. PLA operations emphasize preemption, surprise, and shock value, given that the earliest stages of conflict may be crucial to the outcome of a war. The PLA has increasingly pursued the acquisition of weapons for asymmetric warfare. The PLA mimics the United States in terms of the ambition and scope of its transformational efforts – and therefore challenges the U.S. military at its own game. Nevertheless, we should note that China, despite **a “deliberate and focused course** of military modernization,” is still at least two decades behind the United States in terms of defence capabilities and technology. There is very little evidence that the Chinese military is engaged in an RMA-like overhaul of its organizational or institutional structures. While the Chinese military is certainly acquiring new and better equipment, its RMA-related activities are embryonic and equipment upgrades by themselves do not constitute an RMA. China’s current military buildup is still more indicative of a process of evolutionary, steady-state, and sustaining – rather than disruptive or revolutionary – innovation and change. In conclusion, war in the Asia-Pacific is unlikely but the emergence of East Asia, especially China, will require adjustments by the West, just as Asian societies have had to adjust to Western norms and values during the American century. The challenge for liberal democracies like the United States will be to embark on a course of self-restraint.

#### No risk of Middle East war

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http://www.brookings.edu/opinions/2007/0628iraq\_maloney.aspx)

Yet, the Saudis, Iranians, Jordanians, Syrians, and others are very unlikely to go to war either to protect their own sect or ethnic group or to prevent one country from gaining the upper hand in Iraq. The reasons are fairly straightforward. First, Middle Eastern leaders, like politicians everywhere, are primarily interested in one thing: self-preservation. Committing forces to Iraq is an inherently risky proposition, which, if the conflict went badly, could threaten domestic political stability. Moreover, most Arab armies are geared toward regime protection rather than projecting power and thus have little capability for sending troops to Iraq. Second, there is cause for concern about the so-called blowback scenario in which jihadis returning from Iraq destabilize their home countries, plunging the region into conflict. Middle Eastern leaders are preparing for this possibility. Unlike in the 1990s, when Arab fighters in the Afghan jihad against the Soviet Union returned to Algeria, Egypt and Saudi Arabia and became a source of instability, Arab security services are being vigilant about who is coming in and going from their countries. In the last month, the Saudi government has arrested approximately 200 people suspected of ties with militants. Riyadh is also building a 700 kilometer wall along part of its frontier with Iraq in order to keep militants out of the kingdom. Finally, there is no precedent for Arab leaders to commit forces to conflicts in which they are not directly involved. The Iraqis and the Saudis did send small contingents to fight the Israelis in 1948 and 1967, but they were either ineffective or never made it. In the 1970s and 1980s, Arab countries other than Syria, which had a compelling interest in establishing its hegemony over Lebanon, never committed forces either to protect the Lebanese from the Israelis or from other Lebanese. The civil war in Lebanon was regarded as someone else's fight. Indeed, this is the way many leaders view the current situation in Iraq. To Cairo, Amman and Riyadh, the situation in Iraq is worrisome, but in the end it is an Iraqi and American fight. As far as Iranian mullahs are concerned, they have long preferred to press their interests through proxies as opposed to direct engagement. At a time when Tehran has access and influence over powerful Shiite militias, a massive cross-border incursion is both unlikely and unnecessary. So Iraqis will remain locked in a sectarian and ethnic struggle that outside powers may abet, but will remain within the borders of Iraq. The Middle East is a region both prone and accustomed to civil wars. But given its experience with ambiguous conflicts, the region has also developed an intuitive ability to contain its civil strife and prevent local conflicts from enveloping the entire Middle East.

#### Scales says the plan takes the option of nuclear first use off the table – cuases nuclear war

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Third, the growth of U.S. nuclear counterforce capabilities may give U.S. leaders valuable coercive leverage during future crises and wars, including conflicts with China. The United States strongly prefers that its future wars be waged exclusively with conventional weapons; in fact, one of the great quandaries currently confronting U.S. strategists is how to fight conventional wars against nuclear-armed adversaries without triggering escalation. Nuclear primacy may provide one solution: allowing Washington to credibly warn adversaries not to alert their nuclear forces or issue nuclear threats during a conflict. In other words, **U.S. nuclear primacy may allow the** **U**nited **S**tates **to force its enemies to keep their nuclear forces on the sideline and keep** their **conflicts** with the United States **at the conventional level**.

#### Wartime means Obama will ignore the decision.

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

#### No escalation.

#### Berry, ‘1

[Nicholas, Center for Defense Information Senior Analyst, Defense Monitor, “Disputes don't escalate”, XXX:4, May, <http://www.cdi.org/dm/2001/issue4/asiansecurity.html>]

What emerges from this historical memory is an environment loaded with latent hostility that makes the region's international security relations a fragmented array of bilateral ties. In effect, the widespread latent hostility in the region inhibits multilateral initiatives, security coalitions, and cooperative ventures which the United States sought under President Bill Clinton. "Peace is in pieces," as one academic phrased it in a different context. China, as the most assertive, rising power in this fractured environment, will play an ever-increasing role in determining the level of tension in the region. China is challenging American pre-eminence in Asia. It is not an overstatement to say that how well Beijing and Washington handle this competition will be the big story in the early decades of the 21st century. Much of the latent hostility remains in the background, only occasionally bursting forth into public disputes. Thus, major war remains unlikely. Nevertheless, security cooperation in this setting will be difficult.

# Solv

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

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

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

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

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

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

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

#### The ruling changes nothing. President will win the ground game

Scheppele 12—Professor of Sociology and Public Affairs @ Princeton University [Kim Lane Scheppele (Dir. of the Program in Law and Public Affairs @ Princeton University), “The New Judicial Deference,” Boston University Law Review, 92 B.U.L. Rev. 89, January 2012]

In this Article, I will show that American courts have often approached the extreme policies of the anti-terrorism campaign by splitting the difference between the two sides—the government and suspected terrorists. One side typically got the ringing rhetoric (the suspected terrorists), and the other side got the facts on the ground (the government). In major decisions both designed to attract public attention and filled with inspiring language about the reach of the Constitution even in times of peril, the Supreme Court, along with some lower courts, has stood up to the government and laid down limits on anti-terror policy in a sequence of decisions about the detention and trial of suspected terrorists. But, at the same time, these decisions have provided few immediate remedies for those who have sought the courts' protection. As a result, suspected terrorists have repeatedly prevailed in their legal arguments, and yet even with these court victories, little changed in the situation that they went to court to challenge. The government continued to treat suspected terrorists almost as badly as it did before the suspected terrorists "won" their cases. And any change in terrorism suspects' conditions that did result from these victorious decisions was slow and often not directly attributable to the judicial victories they won.

Does this gap between suspected terrorists' legal gains and their unchanged fates exist because administration officials were flouting the decisions of the courts? The Bush Administration often responded with sound and fury and attempted to override the Supreme Court's decisions or to comply minimally with them when they had to. n6 But, as this Article will show, these decisions did not actually require the government to change its practices very quickly. The decisions usually required the government to change only its general practices in the medium term. Judges had a different framework for analyzing the petitioners' situation than the petitioners themselves did; judges generally couched their decisions in favor of the suspected terrorists as critiques of systems instead of as solutions for individuals. In doing so, however, courts allowed a disjuncture between rights and remedies for those who stood before them seeking a vindication of their claims. Suspected terrorists may have won  [\*92]  in these cases—and they prevailed overwhelmingly in their claims, especially at the Supreme Court—but courts looked metaphorically over the suspects' heads to address the policies that got these suspects into the situation where the Court found them. Whether those who brought the cases actually got to benefit from the judgments, either immediately or eventually, was another question.

Bad though the legal plight of suspected terrorists has been, one might well have expected it to be worse. Before 9/11, the dominant response of courts around the world during wars and other public emergencies was to engage in judicial deference. n7 Deference counseled courts to stay out of matters when governments argued that national security concerns were central. As a result, judges would generally indicate that they had no role to play once the bullets started flying or an emergency was declared. If individuals became collateral damage in wartime, there was generally no judicial recourse to address their harms while the war was going on. As the saying goes, inter arma silent leges: in war, the law is mute. After 9/11, however, and while the conflict occasioned by those attacks was still "hot," courts jumped right in, dealing governments one loss after another. n8 After 9/11, it appears that deference is dead.

 [\*93]  But, I will argue, deference is still alive and well. We are simply seeing a new sort of deference born out of the ashes of the familiar variety. While governments used to win national security cases by convincing the courts to decline any serious review of official conduct in wartime, now governments win first by losing these cases on principle and then by getting implicit permission to carry on the losing policy in concrete cases for a while longer, giving governments a victory in practice. n9 Suspected terrorists have received  [\*94]  from courts a vindication of the abstract principle that they have rights without also getting an order that the abusive practices that have directly affected them must be stopped immediately. Instead, governments are given time to change their policies while still holding suspected terrorists in legal limbo. As a result, despite winning their legal arguments, suspected terrorists lose the practical battle to change their daily lives.

Courts may appear to be bold in these cases because they tell governments to craft new policies to deal with terrorism. But because the new policies then have to be tested to see whether they meet the new criteria courts have laid down, the final approval may take years, during which time suspected terrorists may still be generally subjected to the treatment that courts have said was impermissible. Because judicial review of anti-terrorism policies itself drags out the time during which suspected terrorists may be detained, suspected terrorists win legal victories that take a very long time to result in change that they can discern. As a result, governments win the policy on the ground until court challenges have run their course and the courts make decisions that contribute to the time that the litigation takes. This is the new face of judicial deference.

This Article will explore why and how American courts have produced so many decisions in which suspected terrorists appear to win victories in national security cases. As we will see, many judges have handled the challenges that terrorism poses for law after 9/11 by giving firm support, at least in theory, to both separation of powers and constitutional rights. Judges have been very active in limiting what the government can do, requiring substantial adjustments of anti-terrorism policy and vindicating the claims of those who have been the targets. But the solutions that judges have crafted—often bold, ambitious, and brave solutions—nonetheless fail to address the plights of the specific individuals who brought the cases.

This new form of judicial deference has created a slow-motion brake on the race into a constitutional abyss. But these decisions give the government leeway to tackle urgent threats without having to change course right away with respect to the treatment of particular individuals. New deference, then, is a mixed bag. It creates the appearance of doing something—an appearance not entirely false in the long run—while doing far less in the present to bring counter-terrorism policy back under the constraint of constitutionalism.

# Afghanistan

#### Restricting detention creates a perverse incentive for drone use—that’s worse and flips any legitimacy advantage

Gartenstein-Ross 12—Daveed Gartenstein-Ross, J.D. from NYU School of Law, is the Director of the Center for the Study of Terrorist Radicalization at the Foundation for Defense of Democracies, a Washington-based think tank. He frequently consults on counter-terrorism for various government agencies as well as the private sector [Dec 4 2012, “Gitmo's Troubling Afterlife: The Global Consequences of U.S. Detention Policy,” http://www.theatlantic.com/international/archive/2012/12/gitmos-troubling-afterlife-the-global-consequences-of-us-detention-policy/265862/]

One option, of course, is ending preventive detention entirely, which is favored by many of Obama's critics on the left. But that carries second-order consequences of its own, since al Qaeda has not ended its fight against the United States, nor is the broader problem of violent non-state actors going to disappear. If the U.S. doesn't employ preventive detention, doesn't this create a perverse incentive for killing rather than capturing the opponent? As Wittes writes, "The increasing prevalence of kill operations rather than captures is probably not altogether unrelated to the fundamental change in the incentive structure facing our fighters and covert operatives."

Moreover, if the U.S. tries to wash its hands of preventive detention, detainees will almost certainly end up in worse conditions as a result. The idea has seemingly taken hold that because detention of violent non-state actors by Western governments is unjustifiable and immoral, "local" detention is preferable. So, for example, the United States supported recent military efforts by African Union, Somali, and Ke

nyan forces to push back the al Qaeda-aligned Shabaab militant group in southern Somalia. The U.S. did not take the lead in detaining enemy fighters, and instead its Somali allies did so. But when one compares, say, detention conditions in Somalia to those in Gitmo, the latter is far more humane. If the U.S. and other Western countries eschew detention when fighting violent non-state actors, somebody is going to have to do it, and that alternative is almost certainly going to be worse for the detainees themselves.

What these second-order consequences point to is the fact that reform of U.S. detention policy is more vital than moving detainees to other facilities. William Lietzau, the deputy assistant secretary of defense for rule of law and detainee policy, has told me that the detention of violent non-state actors is an unsettled area of law. To Lietzau, defined and developed rules govern the prosecution of criminals, while the Geneva Conventions govern detention of privileged belligerents under the law of war. But for unprivileged belligerents, such as violent non-state actors, the applicable law is largely undefined. Lietzau has even designed a chart, which has become famous among his colleagues, illustrating the law's lack of development.

This is not to say that moving detainees from Guantánamo to the continental United States is necessarily a bad idea. One could argue that removing that symbol is important. Further, in the long run, moving the detainees may actually save money, since everything at Gitmo, from food to construction materials, must be imported at high cost. But the location of the detention does not address any substantive concerns.

Though it will not be easy, working with partners like the International Committee of the Red Cross to forge a better set of principles and procedures governing the detention of unprivileged belligerents is far more important than moving the Gitmo detainees elsewhere. Put simply, violent non-state actors will continue to challenge the nation-state, so nation-states need a way to deal with detention in this context. Our current policy of pretending that we have moved past noncriminal detention all but ensures we will be caught flat-footed the next time such detention is necessary in a large scale, and thus that the problems inherent to detaining unprivileged belligerents will have gone unaddressed.

#### No escalation: regional cooperation stabilizes Afghanistan

Daily Regional Times 12 ["Trilateral Summit: Trio urges collective efforts for peace, stability in Afghanistan," 12-13, Vol VII, No 474, Lexis]

President Asif Ali Zardari, Turkish President Abdullah Gul and Afghan President Hamid Karzai had joint meeting with Turkish Prime Minister Reccep Tayyip Erdogan, ahead of the 7th Trilateral Summit at the Cankaya Presidential Palace, here Wednesday. According to a President House statement, President Asif Ali Zardari while appreciating the Turkish leadership for the constructive role in regional peace and stability, said that ensuring peace and stability in Afghanistan and the wider region is a matter of urgent priority for Pakistan, Afghanistan and Turkey. He said the presence of the leadership of three countries at the Trilateral Summit meeting reflects collective desire to contribute towards shared objectives of peace and stability in Afghanistan and the region. The President said, "Pakistan firmly believe that peace and stability in Afghanistan is in our own national interest and therefore Pakistan supports all efforts aimed at ensuring peace and stability in Afghanistan." Highlighting the importance of connectivity in the economic integration, President Zardari urged the need for greater linkages and initiating more connectivity projects like Gul Train besides enhanced routes for trade which, he said, was crucial for regional progress and prosperity. Turkish Prime Minister Recep Tayyip Erdogan assured that Turkey would continue to play its constructive role and contribute towards peace and development in Afghanistan and in the wider region. Later Turkish President Abdullah Gul hosted lunch for his Pakistani and Afghan counterparts and the accompanying delegations. Hina Rabbani Khar, Foreign Minister, Arbab Alamgir. Minister for Communications, Imtiaz Safdar Warraich, Minister of State for Interior, Hamid Yar Hiraj, Minister of State and Chairman ERRA, General Ashfaq Parvez Kayani, Chief of Army Staff, Lt. General Zaheer-ul-Islam, DG, ISI, Jalil Abbas Jilani, Foreign Secretary, Muhammad Arif Azeem, Khawaja Muhammad Siddique Akbar, Secretary Interior and Ambassador Muhammad Haroon Shaukat were also present during the lunch.

#### No modeling

**Law & Versteeg 12**—Professor of Comparative Constitutional Law @ Washington University & Professor of Comparative Constitutional Law @ University of Virginia [David S. Law & Mila Versteeg, “The Declining Influence of the United States Constitution,” New York University Law Review, Vol. 87, 2012

The appeal of American constitutionalism as a model for other countries appears to be waning in more ways than one. Scholarly attention has thus far focused on global judicial practice: There is a growing sense, backed by more than purely anecdotal observation, that foreign courts cite the constitutional jurisprudence of the U.S. Supreme Court less frequently than before.267 But the behavior of those who draft and revise actual constitutions exhibits a similar pattern. Our empirical analysis shows that the content of the U.S. Constitution is¶ becoming increasingly atypical by global standards. Over the last three decades, other countries have become less likely to model the rights-related provisions of¶ their own constitutions upon those found in the Constitution. Meanwhile, global adoption of key structural features of the Constitution, such as federalism, presidentialism, and a decentralized model of judicial review, is at best stable and at worst declining. In sum, rather than leading the way for global¶ constitutionalism, the U.S. Constitution appears instead to be losing its appeal as¶ a model for constitutional drafters elsewhere. The idea of adopting a constitution may still trace its inspiration to the United States, but the manner in which constitutions are written increasingly does not.

If the U.S. Constitution is indeed losing popularity as a model for other countries, what—or who—is to blame? At this point, one can only speculate as to the actual causes of this decline, but four possible hypotheses suggest themselves: (1) the advent of a superior or more attractive competitor; (2) a general decline in American hegemony; (3) judicial parochialism; (4) constitutional obsolescence; and (5) a creed of American exceptionalism.

With respect to the first hypothesis, there is little indication that the U.S. Constitution has been displaced by any specific competitor. Instead, the notion that a particular constitution can serve as a dominant model for other countries may itself be obsolete. There is an increasingly clear and broad consensus on the types of rights that a constitution should include, to the point that one can articulate the content of a generic bill of rights with considerable precision.269 Yet it is difficult to pinpoint a specific constitution—or regional or international human rights instrument—that is clearly the driving force behind this emerging paradigm. We find only limited evidence that global constitutionalism is following the lead of either newer national constitutions that are often cited as influential, such as those of Canada and South Africa, or leading international and regional human rights instruments such as the Universal Declaration of Human Rights and the European Convention on Human Rights. Although Canada in particular does appear to exercise a quantifiable degree of constitutional influence or leadership, that influence is not uniform and global but more likely reflects the emergence and evolution of a shared practice of constitutionalism among common law countries.270 Our findings suggest instead that the development of global constitutionalism is a polycentric and multipolar¶ process that is not dominated by any particular country.271 The result might be likened to a global language of constitutional rights, but one that has been collectively forged rather than modeled upon a specific constitution.

Another possibility is that America’s capacity for constitutional leadership is at least partly a function of American “soft power” more generally.272 It is reasonable to suspect that the overall influence and appeal of the United States and its institutions have a powerful spillover effect into the constitutional arena. The popularity of American culture, the prestige of American universities, and the efficacy of American diplomacy can all be expected to affect the appeal of American constitutionalism, and vice versa. All are elements of an overall American brand, and the strength of that brand helps to determine the strength of each of its elements. Thus, any erosion of the American brand may also diminish the appeal of the Constitution for reasons that have little or nothing to do with the Constitution itself. Likewise, a decline in American constitutional influence of the type documented in this Article is potentially indicative of a broader decline in American soft power.

There are also factors specific to American constitutionalism that may be¶ reducing its appeal to foreign audiences. Critics suggest that the Supreme Court has undermined the global appeal of its own jurisprudence by failing to acknowledge the relevant intellectual contributions of foreign courts on questions of common concern,273 and by pursuing interpretive approaches that lack acceptance elsewhere.274 On this view, the Court may bear some responsibility for the declining influence of not only its own jurisprudence, but also the actual U.S. Constitution: one might argue that the Court’s approach to constitutional issues has undermined the appeal of American constitutionalism more generally, to the point that other countries have become unwilling to look either to American constitutional jurisprudence or to the U.S. Constitution itself for inspiration.275

It is equally plausible, however, that responsibility for the declining appeal of American constitutionalism lies with the idiosyncrasies of the Constitution itself rather than the proclivities of the Supreme Court. As the oldest formal constitution still in force, and one of the most rarely amended constitutions in the world,276 the U.S. Constitution contains relatively few of the rights that have become popular in recent decades,277 while some of the provisions that it does contain may appear increasingly problematic, unnecessary, or even undesirable with the benefit of two hundred years of hindsight.278 It should therefore come as little surprise if the U.S. Constitution¶ strikes those in other countries–or, indeed, members of the U.S. Supreme Court279–as out of date and out of line with global practice.280 Moreover, even if the Court were committed to interpreting the Constitution in tune with global fashion, it would still lack the power to update the actual text of the document.

Indeed, efforts by the Court to update the Constitution via interpretation may actually reduce the likelihood of formal amendment by rendering such amendment unnecessary as a practical matter.281 As a result, there is only so much that the U.S. Supreme Court can do to make the U.S. Constitution an¶ attractive formal template for other countries. The obsolescence of the Constitution, in turn, may undermine the appeal of American constitutional jurisprudence: foreign courts have little reason to follow the Supreme Court’s lead on constitutional issues if the Supreme Court is saddled with the interpretation of an unusual and obsolete constitution.282 No amount of ingenuity or solicitude for foreign law on the part of the Court can entirely divert attention from the fact that the Constitution itself is an increasingly atypical document.

One way to put a more positive spin upon the U.S. Constitution’s status as a global outlier is to emphasize its role in articulating and defining what is unique about American national identity. Many scholars have opined that formal constitutions serve an expressive function as statements of national identity.283 This view finds little support in our own empirical findings, which suggest instead that constitutions tend to contain relatively standardized packages of rights.284 Nevertheless, to the extent that constitutions do serve such a function, the distinctiveness of the U.S. Constitution may simply reflect the uniqueness of America’s national identity. In this vein, various scholars have argued that the U.S. Constitution lies at the very heart of an “American creed of exceptionalism,” which combines a belief that the United States occupies a unique position in the world with a commitment to the qualities that set the United States apart from other countries.285 From this perspective, the Supreme Court’s reluctance to make use of foreign and international law in constitutional cases amounts not to parochialism, but rather to respect for the exceptional character of the nation and its constitution.286

Unfortunately, it is clear that the reasons for the declining influence of American constitutionalism cannot be reduced to anything as simple or attractive as a longstanding American creed of exceptionalism. Historically, American exceptionalism has not prevented other countries from following the example set by American constitutionalism. The global turn away from the American model is a relatively recent development that postdates the Cold War. If the U.S. Constitution does in fact capture something profoundly unique about the United States, it has surely been doing so for longer than the last thirty years. A complete explanation of the declining influence of American constitutionalism in other countries must instead be sought in more recent history, such as the wave of constitution-making that followed the end of the Cold War.287 During this period, America’s newfound position as lone superpower might have been expected to create opportunities for the spread of American constitutionalism. But this did not come to pass.

Once global constitutionalism is understood as the product of a polycentric evolutionary process, it is not difficult to see why the U.S. Constitution is playing an increasingly peripheral role in that process. No evolutionary process favors a specimen that is frozen in time. At least some of the responsibility for the declining global appeal of American constitutionalism lies not with the Supreme Court, or with a broader penchant for exceptionalism, but rather with the static character of the Constitution itself. If the United States were to revise the Bill of Rights today—with the benefit of over two centuries of experience, and in a manner that addresses contemporary challenges while remaining faithful to the nation’s best traditions—there is no guarantee that other countries would follow its lead. But the world would surely pay close attention. Pg. 78-83

#### Bribery will determine the outcome. US action is irrelevant

**Eviatar 12** - Senior counsel in the Law and Security Program of Human Rights First [Daphne Eviatar, “U.S. must aid Afghan judicial system,” Politico, March 13, 2012 09:38 PM EDT, pg. http://tinyurl.com/cmvkfkv

Afghanistan’s justice system, meanwhile, is notoriously corrupt, failing to provide even the most basic elements of fair trials, including defense lawyers. When I was in Kabul last year, Afghan defense lawyers and human-rights activists told me that defense lawyers for the accused are still a rarity in much of the country. Even when a defense lawyer is assigned, that attorney often can’t meet with his client for many months, particularly in national security cases. In the meantime, the suspect may be tortured into confessing to a crime he didn’t commit.

Once the case gets to court, getting a judge to even listen to a defense lawyer’s objections or allow presentation of real evidence is challenging. Most Afghans I interviewed insist that evidence is irrelevant in any case. The popular sentiment is that with money, anyone can buy his way out of jail. Those without, guilty or innocent, will be left to rot in prison.

The United States is aware of these problems. Washington knows that a successful U.S. withdrawal depends on the Afghan government’s eventual ability to deliver law, order and justice to its people.

To the U.S. military’s credit, it’s been trying to improve Afghan trials in national security cases by providing mentoring and training for judges and prosecutors handling trials in a U.S.-built facility on the Bagram Air Base and ensuring the accused get a lawyer. But that’s made only small improvements so far, judging from the poor quality of the Afghan trial I observed at Bagram last year. It’s also not clear if that project will continue after the U.S. hands authority to Afghanistan.

It should. Despite mounting pressure to withdraw U.S. troops from Afghanistan, the United States needs to remain involved by providing assistance not only to the military and police, as it’s doing now, but also to the Afghan justice system.

This judicial system needs far more than a few mentors for judges and prosecutors. It needs investigators trained to produce reliable evidence, prosecutors who understand its value and defense lawyers trained to demand that evidence and challenge confessions resulting from torture. It also needs to be able to ensure the safe and humane treatment of detainees.

#### Afghani anti-Americanism is high

**PressTV 3/15**/13 [“Anti-Americanism increases worldwide: Poll,” Friday Mar 15, 2013**11:**10 AM GMT, pg. http://www.presstv.ir/usdetail/293712.html

The worldwide approval rate of the image of U.S. leadership has plunged to its lowest level since President Barack Obama took office, with the highest disapproval ratings being recorded in the Middle East and South Asia, a new Gallup survey has shown.

According to the survey, more than three out of four residents in Pakistan (79%) and Palestine (77%) disapproved of U.S. leadership in 2012.

Overall, the median approval rate of U.S. leadership across 130 countries fell to 41 percent last year from 49 percent Obama’s first year.

 Although most of the countries with the highest disapproval ratings are in the Middle East and South Asia, median approval rate of U.S. leadership in Europe also dropped 11 points since Obama’s first year in office.

There are a number of factors driving anti-Americanism around the world. Pewglobal.org

There is a general perception that the U.S. acts unilaterally in the international arena, failing to take into account the interests of other countries when it makes foreign policy decisions. Pewglobal.org

The so-called U.S.-led war on terrorism is also perceived quite negatively throughout much of the Muslim world. A Pew survey has found declining support for America’s anti-terrorism efforts in many parts of the globe. Pewglobal.org

The United States has carried out more than 360 assassination drone attacks in Pakistan since 2004, killing over 3,500 people, according to a recent study by the London-based Bureau of Investigative Journalism.

A report on the secret drone war in Pakistan says the attacks have killed far more civilians than acknowledged, traumatized a nation and undermined international law. In “Living Under Drones,” researchers conclude the drone strikes "terrorize men, women, and children, giving rise to anxiety and psychological trauma among civilian communities." Democracy Now

"The number of 'high-level' militants killed as a percentage of total casualties is extremely low -- estimated at just 2% [of deaths]", says the report.

Also in Afghanistan, anti-American sentiment is at record high levels. eurasianet.org

Afghanistan is becoming a “drone war,” with a 72 percent increase in the number of drone strikes inside Afghanistan from 2011 to 2012, meaning drones now account for 12 percent of all air strikes in the occupied nation. Antiwar

Attacks by U.S. military forces in Afghanistan, including airstrikes, have reportedly killed hundreds of children over the last four years, according to the UN body monitoring the rights of children. AP

#### 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

#### Afghanistan will stay stable

#### Sediqi 12 [Rafi, "Nato Says New Framework Assures Afghan Stability After 2014," 10-16, http://tolonews.com/en/afghanistan/7967-nato-says-new-framework-assures-afghan-stability-after-2014-]

Some Nato forces will remain in Afghanistan after 2014, assuring ongoing stability as the alliance moves from a combat role to a training mission, Nato-led Isaf spokesman Brig. Gen. Gunter Katz said in Kabul on Monday. Addressing fears of rising insecurity once foreign forces leave in 2014, Katz emphasised the ongoing support of the international community towards Afghan security forces. "Afghanistan will stay stable after 2014. The commitment from the international community at the Chicago and Tokyo summit shows that Afghanistan will be supported in the future as well," Katz said at a briefing in Kabul. Nato civilian spokesman Dominic Medley made similar remarks, saying that the framework for Nato's post-2014 engagement in Afghanistan was decided on last week in Brussels. "Nato defence ministers and the ministers from potential operational partners concluded the first stage of planning for that new mission. This will guide the military experts as they take the planning process forward. It is expected to agree on a detailed outline early next year, and to complete the plan well before the end of 2013," Medley said Monday in Kabul. "This new mission will not be a combat mission. It will be a mission to train, advise and assist," he added. He pointed out that Afghan security forces are already responsible for security of 75 percent of the Afghan people and that they will lead all the military operations by the first half of 2013. "International community and Nato are committed towards Afghanistan and promised billions of dollars to the country. Afghan forces will be supported in the future and their training mission will continue," Medley added. The Nato office in Kabul also introduced new senior civilian envoy to replace Simon Gass who completed his term last month.

# 2NC

**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.

**The affirmative continues the discourse of “saving” Afghanistan, reinforcing the paternalism and neo-colonialism behind US actions**

**Crowe 7** (L. A. Crowe, Researcher, York Centre for International and Security Studies, York University, 2007, “The “Fuzzy Dream”: Discourse, Historical myths, and Militarized (in)Security - Interrogating dangerous myths of Afghanistan and the ‘West’” http://archive.sgir.eu/uploads/Crowe-loricrowe.pdf)

The ‘heroism’ narrative can be called by several names: the ‘saviour syndrome’, “mediatically generated” or “hybrid techno-medical” humanitarianism58, “foreign aid”, “humanitarian intervention”, etc. This narrative constructs foreign engagement in a region as spectacle and as prized commodities to be admired and ‘sold’ to the public; it constructs the West as ‘saviours’ and the ‘Other’, in this case Afghanistan, as the victim in need of saving, accomplished through images and tales of passion and fervour that often pathologize the other and valorize the Western interveener. When the US, with the support of the UN, bombed Afghanistan in 2001in response to the events of September 11th, the mission was entitled “Operation Enduring Freedom”. Today, as reconstruction and ‘peace-building’ efforts are underway in Afghanistan in tandem with military operations, political conversations and media productions are saturated with calls to “win the hearts and minds” of the people of Afghanistan and of the necessary and benevolent role the West must play in instilling ‘freedom’, ‘justice’ and ‘democracy’ in the war-torn and poverty stricken region. Debrix, offers an analysis of what he calls “the global humanitarian spectacle” to demonstrate how medical and humanitarian NGO’s simulate “heroism, sentiment, and compassion”; medical catastrophes and civil conflicts, he explains, have indeed become prized commodities for globalizing neoliberal policies of Western states and international organizations to sell to ‘myth readers’: “They give Western states and the UN the opportunity to put their liberal humanistic policies into practice, while, for Western media, humanitarianism simply sells”.59 There are several repercusions of this myth, explains Debrix. First, this has resulted in real humanitarian and moral issues being overlooked; Second, images are being purged of their content. Myth has thus becoming the very real enemy of true humanitarianism; that is, we’ve become so inundates with superhero mythologization of real world events that the embedded paternalism and unrealistic goals go unnoticed.60 Additionally, this narrative reinforces a victimology of the ‘Other’ and in fact capitalises on it, while simultaneously hiding the paternalistic and neo-colonialist ideologies in humanitarian garb. The role of the media and consciously generated and disseminated images is particularly pronounced here, as passion and spectacle are valued in the commodification of images over content and history. Jean Baudrillard states “There is no possible distinction, at the level of images and information, between the spectacular and the symbolic, no possible distinction between the ‘crime’ and the crackdown”.61

**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.**

**Permutation is an act of imposing masculine order and reason to the world; just placates feminist theory to continue with masculinity. 1AC masculinity has been constructed – simply adding the k is insufficient**

**Peterson 05** [V Spike, Department of Political Science, University of Arizona, Tucson; “How (The Meaning of) Gender Matters in Political Economy,” New Political Economy 10.4 Dec]

Making women empirically visible is thus an indispensable project. It inserts actual (embodied) women in our picture of economic reality, exposes how women and men are differently engaged with and affected by political economy, and reveals women as agents and activists, as well as victims of violence and the poorest of the poor. But adding women to existing paradigms also raises deeper questions by exposing how the conceptual structures themselves presuppose masculine experience and perspective. For example, women/femininity cannot simply be ‘added’ to constructions that are constituted as masculine: reason, economic man, breadwinner, the public sphere. Either women as feminine cannot be added (that is, women must become like men) or the constructions themselves are transformed (namely, adding women as feminine alters their masculine premise and changes their meaning). In this sense, the exclusions are not accidental or coincidental but required for the analytical consistency of reigning paradigms.10

**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

**The discourse of instability is based upon representations that devalue the feminine—its used to deploy violence against the feminine other**

**Tickner 99** [Professor of International Relations at USC, 1999 (J. Ann, 21 Harvard International Review 44, Fall, 47]

When women are absent from foundational theories, established gender biases extend into contemporary international theory. The two theorists mentioned earlier, Hobbes and Machiavelli, have constructed some traditional stories of international politics. Although Hobbes's description of human behavior in the state of nature refers explicitly to that of adult males, contemporary realism has taken this behavior as constitutive of human nature as a whole. Such analogies have appealed to international relations' gloomy picture of the unsocialized behavior of states in an international system of anarchy. But as feminists remind us, if life was to go on for more than one generation in the state of nature, other more cooperative activities, such as child rearing, must have also taken place. Bringing this assumption to contemporary international politics, we might conclude that states are engaged in cooperative as well as competitive activities. Returning to Machiavelli, we find danger not in the unsocialized behavior of men in the state of nature, but in the wild spaces inhabited by the capricious goddess Fortuna. The feminization of dangerous spaces outside the territory of the state has been a metaphor frequently called upon to justify defense budgets or the policies of expansionary states. Feminist theorist Cynthia Enloe describes pictures of native women on posfeards sent home from Africa and Asia in the early part of this century, which depicted appealing images, while making clear that these alien societies needed the civilizing government that only whites could bestow. Former colonial states and their leaders have frequently been portrayed as emotional and unpredictable, characteristics also associated with women. This discourse, which associates danger with those on the outside, is frequently framed in gendered terms. Feminists have suggested that, in today's world of advanced technologies, overly militaristic definitions of security may actually decrease the security of both women and men, directly due to the likely level of destruction should war break out, and indirectly as it decreases resources for other uses.

**The assumption that we need to enforce stability on the world overlooks the costs of stability—broadening the lens of ir to account for a view of security outside of state actors is critical**

**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. 51)]

Whereas world leaders and those who study them concentrate on sus- taining the balance of power among the most powerful—in the interests of stability--nonelites around the world and those who study them focus on the imbalances of power that are created in the name of stability and that compromise the security of the majority of the world's people. People around the world struggling against the tyrannies of sexism, racism, classism, militarism, and/ or imperialism seek justice, which requires upsetting the status quo. An IR lens focused exclusively on elite interstate actors and narrow definitions of security keeps us from seeing many other important realities.

**Russian threat constructions are rooted in western racism**

Øyvind **Jæger,** @ Norweigian Institute of International Affairs and the Copenhagen Peace Research Institute, **2k** [Peace and Conflict Studies 7.2, “Securitizing Russia: Discoursive Practice of the Baltic States,” http://shss.nova.edu/pcs/journalsPDF/V7N2.pdf#page=18]

The Russian war on Chechnya is one event that was widely interpreted in the Baltic as a ominous sign of what Russia has in store for the Baltic states (see Rebas 1996: 27; Nekrasas 1996: 58; Tarand 1996: 24; cf. Haab 1997). The constitutional ban in all three states on any kind of association with post-Soviet political structures is indicative of a threat perception that confuses Soviet and post- Soviet, conflating Russia with the USSR and casting everything Russian as a threat through what Ernesto Laclau and Chantal Mouffe (1985) call a discursive "chain of equivalence". In this the value of one side in a binary opposition is reiterated in other denotations of the same binary opposition. Thus, the value "Russia" in a Russia/Europe-opposition is also denoted by "instability", "Asia", "invasion", "chaos", "incitement of ethnic minorities", "unpredictability", "imperialism", "slander campaign", "migration", and so forth. The opposite value of these markers ("stability", "Europe", "defence", "order", and so on) would then denote the Self and thus conjure up an identity. When identity is precarious, this discursive practice intensifies by shifting onto a security mode, treating the oppositions as if they were questions of political existence, sovereignty, and survival. Identity is (re)produced more effectively when the oppositions are employed in a discourse of in-security and danger, that is, made into questions of national security and thus securitised in the Wæverian sense. In the Baltic cases, especially the Lithuanian National Security Concept is knitting a chain of equivalence in a ferocious discourse of danger. Not only does it establish "[t]hat the defence of Lithuania is total and unconditional," and that "[s]hould there be no higher command, self-controlled combat actions of armed units and citizens shall be considered legal." (National Security Concept, Lithuania, Ch. 7, Sc. 1, 2) It also posits that [t]he power of civic resistance is constituted of the Nation’s Will and self-determination to fight for own freedom, of everyone citizen’s resolution to resist to [an] assailant or invader by all possible ways, despite citizen’s age and [or] profession, of taking part in Lithuania’s defence (National Security Concept, Lithuania, Ch. 7, Sc. 4). When this is added to the identifying of the objects of national security as "human and citizen rights, fundamental freedoms and personal security; state sovereignty; rights of the nation, prerequisites for a free development; the state independence; the constitutional order; state territory and its integrity, and; cultural heritage," and the subjects as "the state, the armed forces and other institutions thereof; the citizens and their associations, and; non governmental organisations,"(National Security Concept, Lithuania, Ch. 2, Sc. 1, 2) one approaches a conception of security in which the distinction between state and nation has disappeared in all-encompassing securitisation. Everyone is expected to defend everything with every possible means. And when the list of identified threats to national security that follows range from "overt (military) aggression", via "personal insecurity", to "ignoring of national values,"(National Security Concept, Lithuania, Ch. 10) the National Security Concept of Lithuania has become a totalising one taking everything to be a question of national security. The chain of equivalence is established when the very introduction of the National Security Concept is devoted to a denotation of Lithuania’s century-old sameness to "Europe" and resistance to "occupation and subjugation" (see quotation below), whereby Russia is depicted and installed as the first link in the discursive chain that follows. In much the same way the "enemy within" came about in Estonia and Latvia. As the independence-memory was ritualised and added to the sense of insecurity – already fed by confusion in state administration, legislation and government policy grappling not only with what to do but also how to do it given the inexperience of state institutions or their absence – unity behind the overarching objective of independence receded for partial politics and the construction of the enemy within. This is what David Campbell (1992) points out when he sees the practices of security as being about securing a precarious state identity. One way of going about it is to cast elements on the state inside resisting the privileged identity as the subversive errand boys of the prime external enemy.

**Constructing China as a threat creates a self-fulfilling prophecy, arms race, and increases the risks of escalation and warfare**

**Pan 4** (Chengxin, Department of Political Science and International Relations, Faculty of Arts, Australian National University, “The "China Threat" in American Self-Imagination: The Discursive Construction of Other as Power Politics,” June/July 2004, Alternatives: Global, Local, Political, Vol. 29, No. 3, pp. 305-331, JSTOR)//PC

I have argued above that the "China threat" argument in main- stream U.S. IR literature is derived, primarily, from a discursive construction of otherness. This construction is predicated on a particular narcissistic understanding of the U.S. self and on a posi- tivist-based realism, concerned with absolute certainty and security, a concern central to the dominant U.S. self-imaginary. Within these frameworks, it seems imperative that China be treated as a threatening, absolute other since it is unable to fit neatly into the U.S.-led evolutionary scheme or guarantee absolute security for the United States, so that U.S. power preponderance in the post-Cold War world can still be legitimated. Not only does this reductionist representation come at the expense of understanding China as a dynamic, multifaceted coun- try but it leads inevitably to a policy of containment that, in turn, tends to enhance the influence of realpolitik thinking, nationalist extremism, and hard-line stance in today's China. Even a small dose of the containment strategy is likely to have a highly dramatic impact on U.S.-China relations, as the 1995-1996 missile crisis and the 2001 spy-plane incident have vividly attested. In this respect, Chalmers Johnson is right when he suggests that "a policy of con- tainment toward China implies the possibility of war, just as it did during the Cold War vis-à-vis the former Soviet Union. The balance of terror prevented war between the United States and the Soviet Union, but this may not work in the case of China."93 For instance, as the United States presses ahead with a missile- defence shield to "guarantee" its invulnerability from rather unlikely sources of missile attacks, it would be almost certain to intensify China's sense of vulnerability and compel it to expand its current small nuclear arsenal so as to maintain the efficiency of its limited deterrence. In consequence, it is not impossible that the two countries, and possibly the whole region, might be dragged into an escalating arms race that would eventually make war more likely. Neither the United States nor China is likely to be keen on fighting the other. But as has been demonstrated, the "China threat" argument, for all its alleged desire for peace and security, tends to make war preparedness the most "realistic" option for both sides. At this juncture, worthy of note is an interesting com- ment made by Charlie Neuhauser, a leading CIA China specialist, on the Vietnam War, a war fought by the United States to contain the then-Communist "other." Neuhauser says, "Nobody wants it. We don't want it, Ho Chi Minh doesn't want it; it's simply a question of annoying the other side."94 And, as we know, in an unwanted war some fifty-eight thousand young people from the United States and an estimated two million Vietnamese men, women, and children lost their lives. Therefore, to call for a halt to the vicious circle of theory as practice associated with the "China threat" literature, tinkering with the current positivist-dominated U.S. IR scholarship on China is no longer adequate. Rather, what is needed is to question this un-self-reflective scholarship itself, particularly its connections with the dominant way in which the United States and the West in gen- eral represent themselves and others via their positivist epistemol- ogy, so that alternative, more nuanced, and less dangerous ways of interpreting and debating China might become possible.

**Arguments about the inevitability of a Chinese attack assume that China is a monolithic actor when in reality there is a domestic debate. Pursuing cooperation substantially decreases the likelihood of a Chinese response**

**Manzo, 8** - CDI Research Assistant (Vince, “U.S. Policy Brief: The Need for a Strategic Dialogue with China,” 8/28, http://www.cdi.org/pdfs/StrategicDialoguePolicy.pdf)

Four Perspectives on China’s ASAT Test Tellis argues China’s ASAT test is “part of a considered strategy designed to counter the overall military capability of the United States, grounded in Beijing’s military weakness at a time when China considers war with the United States to be possible.”1 He believes that China can delay or perhaps cripple the ability of the United States to project force in a confrontation by attacking vulnerable U.S. space assets—the central nervous and sensory organs which the U.S. military uses to identify and track targets, integrate information and coordinate combat operations.2 Tellis links China’s interest in asymmetric capabilities to a specific strategic objective: to prevail in a conflict with the United States over the fate of Taiwan. However, Tellis’s explanation of China’s preferences is theoretical: “China is preparing for a prospective geopolitical rivalry with the United States. This is most likely to arise from the pressures associated with power transitions in an ‘anarchic’ international system.”3 By this logic, China’s decision to develop ASAT capabilities is largely exogenous to any specific U.S. policy or weapon system. Instead, it is a critical component of China’s broader strategic response to the asymmetric military balance between the United States and China, U.S. hegemony and an anarchic international system. Tellis’s bottom line is that China is acting out of strategic necessity and will resist any arms control agreement banning space weapons for the foreseeable future. His policy prescription is that “the United States has no choice but to run an offense-defense arms race [in space], and win.”4 Krepon rejects the assumption that China’s singular objective is offsetting the U.S.-Sino military balance, presenting a more complicated image of China’s strategic calculus: “Beijing’s equities in space and its dealings with the United States are multi- dimensional.”5 According to Krepon, states are deterred from satellite warfare by their inherent dependence on satellites: “Because every spacefaring nation can lose badly in the event that vulnerable and essential satellites are damaged…a rudimentary form of deterrence against satellites existed…It continues to exist today.”6 This held true for the United States and the Soviet Union during the Cold War, and Krepon is optimistic that these factors will influence China’s strategic considerations and decisions. Based on this premise, China’s commitment to ASAT weapons is uncertain and not as absolute as Tellis alleges. Several experts suggest that China’s ASAT test is part of its broader efforts to maintain the credibility of its nuclear deterrent in the face of new U.S. capabilities. For instance, a space expert at a roundtable discussion at the National Defense University (NDU) suggested China is worried that in the future a U.S. space-based missile defense system will eventually negate its nuclear deterrent, and therefore is developing ASAT weapons for defensive purposes.7 Writing before January 2007, Roberts explains that China sees U.S. missile defense as a potential threat to the effectiveness of its nuclear deterrent, and will likely alter its strategic posture to ensure its continued potency as “US BMD capabilities reach the field.”8 Roberts places ASAT capabilities within the context of needing to penetrate a U.S. missile defense shield by highlighting the utility for China of an “anti-satellite attack (ASAT) on space-based infrastructure.”9 The policy implication flowing from this premise is that China’s pursuit of ASAT capabilities is at least partially influenced by changes in U.S. force structure. Based on discussions with relevant Chinese officials and weapons specialists, Kulacki and Lewis suggest that analysts in the United States “overstate the importance of the United States as a driver in China’s decision to develop the technology and conduct the test.”10 Their Chinese counterparts explained that China began researching basic “hit-to- kill technology” in the mid 1980s, not for a specific military purpose but to keep pace with the United States and the Soviet Union.11 The decision to test was merely a culmination of this research, and they chose to test the technology as an ASAT rather than a missile interceptor because “it is much easier to hit a satellite than to intercept a missile.”12 Their observations indicate that the Chinese government has not yet articulated a specific role for ASAT weapons in its defense strategy, and certainly does not yet perceive of them as a strategic necessity. Who is Right? The four viewpoints in the previous section represent a mere sampling of the voluminous body of opinions about China’s ASAT test, strategic thinking and intentions. A coherent and effective U.S. response to the test requires a basic understanding of China’s motivations, but this debate will not resolve itself anytime soon. Unfortunately, the United States cannot wait for perfect information because its current policy decisions will have an immediate impact. What is to be done? The United States should avoid attributing China’s actions to a single objective. Policy decisions are rarely driven by a solitary goal, and never fit into a clear-cut, cookie-cutter explanation. This case is no exception. China’s decision to develop and test an ASAT weapon was probably driven by a variety of factors. “Hit-to-kill” technology is applicable to ASAT weapons as well as missile defense, and the United States and the Soviet Union have developed similar capabilities. Therefore, as Kulacki and Lewis suggest, China’s decision to pursue “hit-to-kill” research and development was probably not driven by a single objective, and its decision to test its investment is logical, if not condonable. Moreover, ASAT capabilities are probably attractive to China precisely because they could potentially serve several purposes, including function as an effective weapon against a superior and satellite-dependent military foe and as a tool to disable the satellites of a future U.S. missile defense system. In gauging China’s commitment to ASAT weapons, the United States should reject the certainty with which Tellis qualifies his argument. Neither the government of the People’s Republic of China (PRC) nor the People’s Liberation Army (PLA) is a monolith; a variety of opinions about ASAT weapons are probably vying for acceptance within both organizations. Considerations that inhibit ASAT testing, deployment and use resonate with some Chinese officials, while others are likely uncompromising in their belief that ASAT capabilities are a strategic necessity. Indeed, China’s track record in the Conference on Disarmament suggests that the proponents of arms control within the Chinese government must have some influence over national policy-makers.13 The evolution of U.S. strategic force posture and the broader U.S.-Sino relationship are two of the factors that will influence which camp wins the policy debate within the Chinese government. While the United States is not the pre-eminent issue influencing Chinese policy, to deny any causal link between U.S. policies and China’s decisions is irresponsible and excuses U.S. policy-makers from thinking through the immediate and indirect consequences of their choices.

**Representations can’t be divorced from policy actions- they establish a framework for thinking about the Middle East. They selectively reveal and conceal aspects of the Middle East to represent it as conflict prone**

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Throughout the twentieth century, the Middle East remained as an arena of incessant conflict attracting global attention. As the recent developments in Israel/Palestine and the US-led war on Iraq have showed, it is difficult to exaggerate the signifcance of Middle Eastern insecurities for world politics. By adopting a critical approach to re-think security in the Middle East, this study addresses an issue that continues to attract the attention of students of world politics. Focusing on the constitutive relationship between (inventing) regions, and (conceptions and practices of) security, the study argues that the current state of 'regional security' - often a euphemism for regional insecurities - has its roots in practices that have throughout history been shaped by its various representations - the geopolitical inventions of security. In doing this, it lays out the contours of a framework for thinking differently about regional security in the Middle East. Prevailing approaches to regional security have had their origins in the security concerns and interests of Western states, mainly the United States. The implication of this Western bias in security thinking within the Middle Eastern context has been that much of the thinking done on regional security in the Middle East has been based on Western conceptions of 'security'. During the Cold War what was meant by 'security in the Middle East' was maintaining the security of Western (mostly US) interests in this part of the world and its military defence against other external actors (such as the Soviet Union that could jeopardise the regional and/or global status quo). Western security interests in the Middle East during the Cold War era could be summed up as the unhindered flow of oil at reasonable prices, the cessation of the Arab-Israeli conflict, the prevention of the emergence of any regional hegemon, and the maintenance of 'friendly' regimes that were sensitive to these concerns. This was (and still is) a top-down conception of security that was military-focused, directed outwards and privileged the maintenance of stability. Let us take a brief look at these characteristics. The Cold War approach to regional security in the Middle East was top-down because threats to security were defined largely from the perspective of external powers rather than regional states or peoples. In the eyes of British and US defence planners, communist infiltration and Soviet intervention constituted the greatest threats to security in the Middle East during the Cold War. The way to enhance regional security, they argued, was for regional states to enter into alliances with the West. Two security umbrella schemes, the Middle East Defence Organisation (1951) and the Baghdad Pact (1955), were designed for this purpose. Although there were regional states such as Iraq (until the 1958 coup), Iran (until the 1978-79 revolution), Saudi Arabia, Israel and Turkey that shared this perception of security to a certain extent, many Arab policy-makers begged to differ. Traces of this top-down thinking are still prevalent in the US approach to security in the 'Middle East'. During the 1990s, in following a policy of dual containment US policy-makers presented Iran and Iraq as the main threats to regional security largely due to their military capabilities and the revisionist character of their regimes that were not subservient to US interests. In the aftermath of the events of September 11 US policy-makers have focused on 'terrorism' as a major threat to security in the Middle East and elsewhere. Yet, US policy so far has been one of 'confronting the symptoms rather than the cause' (Zunes 2002:237) as it has focused on the military dimension of security (to the neglect of the socio-economic one) and relied on military tools (as with the war on Iraq) in addressing these threats. This is not to underestimate the threat posed by weapons of mass destruction or terrorism to global and regional security. Rather, the point is that these top-down perspectives, while revealing certain aspects of regional insecurity at the same time hinder others. For example, societal and environmental problems caused by resource scarcity do not only threaten the security of individual human beings but also exacerbate existing conflicts (as with the struggle over water resources in Israel/Palestine; see Sosland 2002). Besides, the lives of women in Kuwait and Saudi Arabia were made insecure not only by the threat caused by Iraq's military capabilities, but also because of the conservative character of their own regimes that restrict women's rights under the cloak of religious tradition. For, it is women who suffer disproportionately as a result of militarism and the channelling of valuable resources into defence budgets instead of education and health (see Mernissi 1993). What is more, the measures that are adopted to meet such military threats sometimes constitute threats to the security of individuals and social groups. The sanctions regime adopted to rid Iraq of weapons of mass destruction has caused a problem of food insecurity for Iraqi people during the 1990s. In the aftermath of the US-led war on Iraq, Iraqi people are still far from meeting their daily needs. Indeed, it is estimated that if it were not for the monthly basket distributed as part of the United Nations' 'Oil for Food' programme, 'approximately 80 percent of the Iraqi population would become vulnerable to food insecurity' (Hurd 2003). Such concerns rarely make it into analyses on regional security in the Middle East.

**It will culminate in extinction – we control the scale of violence**

**Scheper-Hughes and Bourgois 04** (Prof of Anthropology @ Cal-Berkely; Prof of Anthropology @ UPenn)(Nancy and Philippe, Introduction: Making Sense of Violence, in Violence in War and Peace, pg. 19-22)

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

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

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

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

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

Among opponents to Bush-era policies, **Obama’s remarks produced quiescence and calm, a sense that the nation had finally “recovered” and that attention could safely be devoted to more pressing matters like the economy. But immediately after Obama’s speech, the cameras shifted to former Vice President Cheney, who offered a vigorous defense of Bush-era counter-terror policies, including in particular Guantánamo and the use of “enhanced interrogation techniques**.” Relying on his position as an insider with presumed access to secrets unknown to most Americans, Cheney hinted darkly of the dangers that would befall Americans now that President Obama was carving holes in the security net carefully woven by the Bush Administration.133 Republicans have hammered on this theme throughout Obama’s Administration (just as, it must be acknowledged, Democrats hammered on the theme of lawlessness and incompetence throughout the Bush Administration).134

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

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

**1. Non-state actors are increasingly important in international politics. Realist understandings can’t adapt to changing environments or explain the connection between the public and private. Gendered understanding is more flexible and complete**

**Hutchings 08** [Kimberly is a Professor at the London School of Economics, Men and Masculinities Vol 10 No 4, “Making Sense of Masculinity and War,” p. Ebsco]

Within the broader field of the study of international relations, theories of gender and war constitute a distinctive disciplinary subfield, which is also separated from the subfield of war or strategic studies. The latter area of research has not traditionally used gender as a significant category for the analysis of war and strategy, even though the association of war with masculinity is an assumption often taken for granted. At the current point in time, debates continue as to the appropriate way to understand and analyze modern warfare. For many scholars, war is still defined in von Clausewitz’s (1968) terms and is argued to be essentially the same across time and place. On this view, changes in the protagonists and fields of conflict, in their ideological and institutional contexts, and in the technologies through which wars are fought make no difference to war’s essential meaning (von Clausewitz 1968; Gray 1999). From a Clausewitzian perspective, the relation between masculinity and war is taken for granted, rather than being singled out for analysis. Nevertheless, in terms of the substantive understandings of both war and masculinity involved, von Clausewitz’s (1968) account matches that which dominates the gender and war literature. An interesting illustration of the role of gender in traditional Clausewitzian accounts of war is offered in a polemical article by van Creveld (2000), who frames war in post–Cold War advanced industrial societies in terms of a narrative of so-called feminization (see also Coker 2000; Elshtain 2000). In Van Creveld’s analysis, feminization has a double meaning. On one hand, feminization refers to the fact that there are now many more women in the professional militaries of advanced industrial societies; on the other hand, feminization refers to a process of decline in the capacity to engage in so-called real war. Evidence for the latter thesis is found in the decline of participation in major interstate conflicts by Western powers and the increasing use of the military for peacekeeping or humanitarian intervention purposes in the post–Cold War period. These two meanings of feminization are mutually reinforcing, with each being symptom or cause of the other. Setting aside the question of its accuracy, what is interesting about van Creveld’s polemic from the point of view of thinking about the relation between masculinity and war is his conflation of feminization with the absence of real war. The most powerful way he can find to signify that war is no longer what it used to be for Western militaries is to associate it with the feminine—that which masculinity is not. For van Creveld, war has not changed so much as disappeared (or at least,its conditions of possibility have disappeared) in certain contexts. For other scholars, however, the decline of Clausewitzian war is explained in terms of changes in the nature of war itself. Over the past fifteen years,a variety of alternative stories about war and how it is to be understood in the late twentieth and early twenty-first centuries have been put forward. These are rarely stories in which gender is a primary object of analysis, and partly for this reason, they provide a useful resource for investigating how the links between war and hegemonic masculinity operate within the social scientific imagi- nation. In what follows,I examine three examples of accounts of the changing nature of war offered by Mary Kaldor, Christopher Coker, and James Der Derian, respec- tively. I have selected these examples for three reasons:first,because they have been and are influential in ongoing debates about the nature of war within the broader dis- cipline of international relations; second, between them, the three theorists reflect two dominant tendencies within the literature—one that frames contemporary war in a new version of a distinction between civilized and barbarous, and one that empha- sizes the significance of new technologies in the development of war in a postmodern direction; third, each theorist offers a distinctive normative perspective on the ways in which war is developing. In examining the arguments of each theorist,I adopt the strategy of a double reading of their work. In the first place, I read their substantive message, in terms of their description of the ways in which war is changing. In the second place, I attend to their evaluation of the developments they are describing, both as explicitly presented and as implicit in their rhetorical strategies in the text. Having done this,in the following section,I will draw out how each author uti- lizes the formal properties of the concept of masculinity in both their analysis and evaluation of what is happening to war. Kaldor’s (1999) argument about the changing nature of war is simple and builds, in particular, on her observation of the wars following the breakup of Yugoslavia. In her book New and Old Wars:Organized Violence in a Global Era, she claims that Clausewitzian war (old war) is being replaced by a new form of warfare in the post–Cold War period (new war). New wars are different in their rationale and method from old ones. Kaldor argues that they are likely to be intra- rather than interstate and arise out of ethnic identity politics, rather than clashes of national self-interest or ideological conflict. Instead of a clear demarcation between zones of war and zones of peace, a clearly identifiable military (and therefore civilian) and national war economies, new wars blur the distinction between war and peace, soldier and civilian, and are resourced through a globalized black economy: The gang warfare of inner cities in the North, conflicts in places like Bosnia and Somalia and even the virtual old style wars conducted through air strikes are all manifestations of the new types of organized violence. (Kaldor 1999, 139) Kaldor’s (1999) evaluation of the development of new wars is also very clear. She sees them as highly dangerous and links new wars rhetorically to barbarism and dis-ease. She outlines three possible responses to the development of new wars at the level of analysis:realism; neomedievalism; and cosmopolitanism.5 **Realist accounts**, Kaldor claims, **fail to appreciate that war has changed and are simply trying to accommodate new wars to a Clausewitzian frame**. Neomedievalist accounts, she claims, offer a better diagnosis of the nature of new wars but see them as essentially a lapse into a Hobbesian state of nature that cannot be fully understood or addressed. Cosmopolitanism, Kaldor argues, includes both a grasp of the distinctive nature of new wars and a set of potential remedies for them. Essentially, for Kaldor, the response to new war should be the task of cosmopolitan law enforcement, in which transnational institutions enable lawful policing of political violence and the containment of its effects. Coker’s (2001, 2002) work has a much broader historical range than Kaldor’s (1999) and,in various texts,traces the development of war,in different cultural con- texts,from prehistoric times to the twenty-first century. I will focus here on two argu- ments that Coker (2001, 2002) makes about war within Western culture (he locates the origins of Western warfare in ancient Greece) in the late twentieth and early twenty-first centuries. These are his arguments about humane warfare(Coker 2000, 2001) and posthuman war(Coker 2002). Coker is insistent that the peculiarity of Western warfare has always been the bringing together of an instrumental and an existential element,so that war both serves certain purposes andis also a key way in which participants negotiate the meaning of their humanity (Coker 2002). In modernity,the instrumental aspect of war comes to predominate increasingly,and this permits the, perhaps rather fleeting, humane warfare of the 1990s and drives the shift toward posthuman war at the current time. Humane warfare is the mode of war Coker associates with humanitarian intervention and peacekeeping and which involves the minimizing of casualties as a key objective of militaries, in particular, the minimization of casualties within the militaries themselves. The development of smart weapons, which can discriminate between legitimate and illegitimate targets; the zero casualty rates among the allies in the Gulf War; the reaction by the United States to the relatively small number of casualties in the humanitarian intervention in Somalia; and the choice of air strikes, rather than ground troops, for intervention in Kosova all signify a shift in the values underpinning the making of war, from a warrior culture (in which death in war is existentially meaningful) to one in which human rights have come to dominate. However, more fundamental is the shift that Coker argues is happening in war toward the posthuman. This shift is driven by the dominance of instrumental attitudes to war and the technologies now available, which increasingly (literally) take the human out of the field of conflict into a virtual environment, or which enable the management of the stress responses of soldiers through biotechnological means. For Coker,this means that the human element is taken out of war, and war loses its existential and social meaning. Coker (2001, 2002) presents his account as a description or phenomenology of war, rather than as an evaluation. However, his rhetoric suggests a regretful nostalgia for ways of doing war in which the existential element was part of the story of the Western way of warfare (he argues that it still is part of the story in other cultures). The analysis draws on a reading of Nietzsche and depends on an interpretation of Nietzsche’s critique of nihilism (Coker 2002). The values inherent in the humanity of war, according to Coker, are values of heroism and sacrifice, of the immortality of great deeds being given priority over the mortality of particular individuals. The implication of Coker’s analysis is that these values are at the heart of what it means to be human and capable of overcoming—creating and recreating one-self and one’s world: Overcoming requires great deeds and projects,and perhaps even wars in which warriors come to “know”themselves for the first time. Becoming posthuman does not because it is driven by factors extraneous to our previous “humanity.”(Coker 2002, 190) Der Derian’s (2001) work focuses on the impact of new technologies on the nature of war, including on how war is practiced by the military and the impact of war on civilian populations at home and abroad. In particular, Der Derian is interested in the links (network) between the military, industry, media, and entertainment, both at the level of the production and use of technology and in their interaction in the presentation and legitimization of war to the militaries themselves and to the public. In many ways,Der Derian is covering the same ground as Coker in his argument about the shift to posthuman warfare. However, Der Derian’s analysis of what is happening is less clear cut than Coker’s. On one hand, Der Derian clearly does see the U.S. military’s embrace of so-called network-centric warfare as a significant development with ramifications for how wars will be fought and experienced, both by protagonists and victims, in the future. He offers accounts of technological developments and military training in which the theater of war has become a virtual environment and the speed of action and response has massively accelerated. He also demonstrates how military thinking makes sense of the new forms of warfare via analogies with business and the market and how the links between the military, industry, and the media are becoming increasingly intense. At the same time,however,Der Derian’s message is by no means the posthuman message of Coker. At the level of military theory, the military itself is insistent that the human element remains crucial to war fighting. But perhaps more important,in the exercises or experiments that Der Derian witnesses,and in the actual uses of high-technology weaponry against Serbia in the intervention in Kosova, Der Derian repeatedly chronicles how the human element disrupts and undermines the script written into network-centric warfare. In his analysis,Der Derian (2001) is critical of the “virtuous war”that he is describing. He clearly sees the speeding up of decision making in war as inherently dangerous and the notions of surgical strikes and zero-casualty warfare as misleading myths: Amidst all the enthusiasm for techno-solutions, no one seemed to be looking at the end-point of the trajectory: a battlefield in which networks, systems, robots and smart weapons target each other, and all damage measured in flesh and blood becomes “collateral.” (Der Derian 2001, 148) At the same time, however, the rhetoric of his analysis conveys his fascination with the techy world of network-centric warfare and recognizes the pleasure and excitement of playing war as a game. Der Derian (2001) is highly rhetorically self- conscious in his writing. The reader of Der Derian’s texts is in part seduced by the phenomena Der Derian is exploring,but how to interpret the lesson of this seduction is unclear. In relation to an audience immersed in new technology and mass media entertainment, Der Derian is pointing out that even from the point of view of a critical theorist, knowing your enemy is, in this case, also about knowing yourself. Hegemonic Masculinity and the New War Stories In the case of all three of the war stories told previously, even though they do not explicitly engage in the analysis of masculinity, certain familiar ingredients in both the description and evaluation of war take us back to standard accounts of the link between hegemonic masculinity and war. In each case, we can also see a process of contestation in which the meaning of hegemonic masculinity is reworked, along with the reworking of the description and evaluation of war. The preservation of the link between discourses of masculinity and discourses of war demonstrates simultaneously the flexibility of the terms and the ubiquity of their identification. It suggests that the link between masculinity and war is not grounded in any continuity of sub- stantial meaning as such, but rather in the resources offered by the concept of masculinity for rendering war open to analysis and judgment.

# 1NR

# defense

#### CCP instability is key to Chinese democratization --- pressure will trigger limited democratic reforms --- these will snowball into full democracy.

#### Arthur Waldron, Spring 2004. Senior Fellow of Foreign Policy Research Institute and the Lauder Professor of International Relations at the University of Pennsylvania. “Democratization and Greater China: How Would Democracy Change China?” Orbis, [www.fpri.org/orbis/4802/waldron.democracychangechina.pdf](http://www.fpri.org/orbis/4802/waldron.democracychangechina.pdf).

#### More surprisingly, Hu has at least paid lip service to democracy for the citizenry as well. On the eve of National Day, October 1, he made a speech that asserted: ‘‘We must enrich the forms of democracy, make democratic procedures complete, expand citizens’ orderly political partici\*pa- tion and ensure that the people can exercise democratic elections, democratic decision making, democratic administration, and democratic scrutiny.’’18 Why is Hu saying this? Other Chinese have been forthright in their demands that their country adopt what journalists still often refer to as Western-style democracy—even though Japan, India, South Korea, Taiwan, the Philippines, and other Asian states have democratic lineages in many cases far longer than many of the West’s ‘‘new democracies.’’ Thus, on the eve of a Party meeting called for mid-October to discuss amending the constitution, the respected Beijing constitutional scholar and economist Cao Siyuan published China’s Constitution Revision—Protect Everyone’s Legal Rights, which he sent to every member of the Politburo. In it he advocates immediate steps to discard Marxist rhetoric, give priority to citizens’ rights, and enforce the presumption of innocence in court proceedings. He urges holding direct elections at all levels, empowering local and provincial legislatures, privatizing the media, and guaranteeing freedom of speech, press, and religion.19 The immediate ofﬁcial response to these suggestions was to place Cao under 24-hour security police surveillance (now lifted). Almost simultaneously with Cao’s calls came news that an experimental, directly elected community council may be envisaged for a Beijing neighborhood.20 Reporters did not expect a dramatic democratic breakthrough, but was this a straw in the wind? This is not to suggest that the Communist Party has changed its colors and is preparing to lead China through a transformation to democracy. But evidently the issue is alive in China and the Party is attempting to deal with it. Almost inevitably, that will lead to experiments in limited opening—and those, as we saw in the late 1980s and early 1990s, usually lead to far greater changes than their authors envisage. The reason that the Party is playing with democratic ﬁre is simple: popular pressure, at home and from the Chinese diaspora, and the knowledge within the political class that whoever succeeds in channeling into democratic institutions the aspirations and free-ﬂoating resentments of today’s China will emerge as a winner.

#### Renxing ev has no warrant

#### The transition will be stable.

#### Bruce Gilley, January 2007. Assistant professor of political studies at Queen's University in Canada, and former contributing editor at the Far Eastern Economic Review. “Is China Stuck?” Journal of Democracy, 18.1, Project Muse.

#### Yet what if the CCP is actually quite responsive? What if it is in tune with popular demands, and finds ways to move and adapt as those demands change? In other words, what if the party stays or goes because of [End Page 173] popular pressures? Pei himself recognizes this possibility. He cites "rising public dissatisfaction" (p.14) as one thing that would prod the regime to change. "A democratic opening may emerge in the end, but not as a regime-initiated strategy undertaken at its own choosing, but more likely as the result of a sudden crisis" (p. 44). Perhaps the word crisis is being used in two different senses here. One crisis and another can, after all, vary in urgency: There are crises and there are crises. The crisis of which Pei speaks seems to be of the more benign sort, a mere shift in public preferences that prods the regime to change. Such a crisis will not require democracy to rise upon the ashes of a razed public square, but rather will stir the regime to recognize that its time has come, and to do the right thing by going fairly gentle into that good night. If so, then the prospects for a relatively smooth democratic transition in China are bright and no collapse is likely.

#### Prefer our evidence --- western analysts often mistake progress towards democratization as a crisis in CCP leadership.

#### Sydney Morning Herald, 11/27/2008. “Outbreak of transparency,” <http://www.smh.com.au/news/world/outbreak-of-transparency/2008/11/26/1227491636668.html>.

A WAVE of protest and riots has spread across China, igniting debate over whether it shows rising political instability or a new tolerance for democracy. Official media, predominantly the Government's flagship Xinhua news agency, have promptly and prominently reported violent protests that began with thousands of taxi drivers in China's largest city, Chongqing, on November 3. The nationwide coverage appears to have encouraged taxi drivers, disgruntled land owners and laid-off workers to take to the streets in at least eight provinces. The Communist Party's Guangzhou Daily reported that 2000 toy factory workers had ransacked company offices and overturned a police car in Dongguan, a manufacturing city that has been badly hit by the global financial crisis. This week Guizhou, Hunan and Shaanxi provinces and the city of Shantou in Guangdong have also been rocked by mass unrest. Last night Xinhua quoted the Premier, Wen Jiabao, as telling a closed-door meeting of advisers: "Difficult times require more scientific and democratic decision-making". The report said Mr Wen had called for "strengthened democratic supervision". Some local governments appear to have legitimised the right to protest by acceding to demonstrators' demands. In Chongqing, the local government promised taxi drivers lower licence fees and stricter enforcement against unlicensed competitors following an audience with Chongqing's high-ranking party secretary, Bo Xilai. "In the old thinking, strikes meant instability," wrote Zhang Yongsheng, a researcher at the State Council's Development Research Centre, in an essay to be posted today on a blog affiliated with the Australian National University. "But actually strikes are a sign that Chinese society is becoming more and more open, transparent and democratic since the people can now protest publicly and the Government has to solve problems through reforming and disciplining their own behaviour." Mr **Zhang said some Western media reports had mistaken progress towards democratisation for instability and even a crisis in Communist Party rule**.

# democracy

\*Social pressure will trigger Chinese democratization --- the revolutionary elders and military are no longer in the way.

Merle **Goldman**, January **2005**. Professor emeritus of Chinese history at Boston University, and associate of the Fairbank Center for East Asian Research at Harvard University. “What's in Store for China,” Journal of Democracy 16.1, Project Muse.

Will China become a democratic country within the next twenty years? At present, the lack of opposition political parties, nationwide free elections, the rule of law, a developed civil society, a free press, and an independent middle class, legislature, and judiciary makes the possibility of a democratic China seem far-fetched. Yet Bruce Gilley, a former journalist for the Far Eastern Economic Review, sees such a possibility materializing. In his new book, Gilley supports his thesis by marshaling a number of thoughtful, substantive arguments, presented in a comparative context. He foresees an elite-led process of democratization, **spurred by pressures from below** but within the context of the well-established Chinese state, unfolding in the early decades of the twenty-first century. Gilley finds prodemocratic legacies in China's premodern history: bureaucratic meritocracy, Confucian accountability, and Buddhist tolerance. He also points to 1912, when the fall of the last imperial dynasty led to the establishment of the Republic of China, and 20 million Chinese voters elected a national government in free and fair elections. Although the results of those elections were nullified by outbursts of warlordism that lasted almost until China's 1949 communist revolution, Gilley expects to see the hundredth anniversary of those elections celebrated with another round of voting in 2012, in a second attempt at founding an enduring democracy in China. There is no question, as Gilley points out, that the post-Mao economic reforms launched in the last two decades of the twentieth century [End Page 168] worked in democracy's favor. As they shifted China away from centralized planning and toward a market economy, these reforms also transformed Chinese society by limiting the government's power, fostering autonomous transactions among individuals, and loosening state control over people's personal lives. Yet despite these changes, Gilley notes, the Leninist "vanguard party" system remains intact. Thus, when students and ordinary citizens demonstrated in Beijing's Tiananmen Square in the spring of 1989, demanding democracy and calling for an end to corruption and inflation, the Mao-generation elders of the Chinese Communist Party (CCP) sent in troops on June 4 to suppress the movement with gunfire. Yet, despite the tragic end to the promising events of 1989, Gilley sees them as a prelude to democratization, for they revealed a nascent civil society with global linkages on the issues of democracy and human rights, as well as the first glimmers of negotiations between the regime and the opposition. In the 1990s, accelerating economic reforms unleashed other problems—growing economic, social, and regional inequalities; rampant corruption at every level of government; and unregulated environmental pollution—which have made the move toward democracy, as a way to deal with these problems, all the more urgent. Gilley explains that such obstacles as the CCP's revolutionary elders (most of whom have already died) and the military, which had become neutralized by the start of the twenty-first century, no longer block China's road to democracy. And the growth of a broad and increasingly wealthy middle class has created a new force for democratization. As Gilley explains, "the middle class seeks recognition and protection of its growing interests from the state, mainly through improved legal guarantees and openness." By the turn of the century, this urbanized class accounted for 10 to 15 percent of China's population. Gilley cautions, however, that democratization may be delayed when business interests collude with the authoritarian state. This is already the case in China, as business leaders have begun forming close alliances with officials in a variety of economic endeavors at both the national and local levels. In fact, in the past few years, the CCP has been actively recruiting millions of businesspeople into its ranks, thereby coopting them into the system and making them less likely to be a force for change. Although it is clear that Chinese society has grown stronger since the end of the Mao era in 1976, it has not yet become robust enough to challenge the state: This is still being prevented by continuing clientelist ties between the state and the business community. Thus the main force for political change in China is not the members of the business community but rather the intellectuals on the margins of the establishment—those who were purged from the establishment due to earlier political activism and those forced to become workers or small entrepreneurs. While new laws safeguard the integrity of business transactions, [End Page 169]there is little legislation to protect political and civil activities. People seeking to bring about political change, such as those who in 1998 tried to establish an alternative political party called the China Democracy Party, have met with severe repression; most of their leaders are now in jail. One of the most insightful discussions in Gilley's book considers Chinese political change in comparative perspective. He cites a wide range of sources on the "third wave" of democratization (the transition of dozens of countries from nondemocratic to democratic political systems beginning in the mid-1970s), pointing especially to the success of the new democracies created after the collapse of the communist regimes of Eastern Europe, which he attributes primarily to their precommunist democratic legacies. But as Gilley notes, China differs in some important respects from the third-wave and post-Soviet democracies. Although the country had important democratic thinkers and the beginnings of a civil society in several cities during the early decades of the twentieth century, these developments were repressed during the time of Chiang Kai-shek (1928-49) and then destroyed during Mao's rule. Gilley argues that China at present more resembles the "authoritarian pluralism" that existed in South Korea and Taiwan before their democratic breakthroughs. In both those cases, **democracy came about through pressure from below that the top leadership eventually was unable to ignore**. Taiwan, for example, began to elect village heads and village councils in the early 1950s, gradually moving these elections to higher administrative levels. At the same time, organized political groups were established and the media began to open up. Thus, when Taiwan's President Chiang Ching-kuo lifted martial law in 1987 and allowed these democratic institutions to flourish, he was only recognizing what in fact already existed.

China key to global democracy --- they bailout authoritarian regimes and prevent global consolidation.

Edward **Friedman**, Winter **2009**. Professor in the Department of Political Science at the University of Wisconsin, Madison, where he specializes in Chinese politics. “China: A Threat to or Threatened by Democracy?” Dissent 56.1, Project Muse.

There is no other long-lasting basis for trustful cooperation with the government in Beijing than to accept the regime's legitimacy. CCP ruling groups imagine foreign democracy promotion as a threat to China's—and the world's—better future, identified, of course, as at one with the interests of CCP ruling groups. Can the world afford not to treat China as the superpower it is? The CCP imagines a chaotic and war-prone world disorder of American-led democracy-promotion being replaced by a beneficent Chinese world order of authoritarian growth with stability. There may be far less of a challenge to China from democracy than there is a challenge to democracy from China. Democracy-promoter Larry Diamond concludes in his recent book The Spirit of Democracy that **democracy is in trouble across the world because of the rise of China**, an authoritarian superpower that has the economic clout to back and bail out authoritarian regimes around the globe. "Singapore . . . could foreshadow a resilient form of capitalist-authoritarianism by China, Vietnam, and elsewhere in Asia," which delivers "booming development, political stability, low levels of corruption, affordable housing, and a secure pension system." Joined by ever richer and more influential petro powers leveraging the enormous wealth of Sovereign Investment Funds, "Asia will determine the fate of democracy," at least in the foreseeable future. **Authoritarian China, joined by its authoritarian friends, is well on the way to defeating the global forces of democracy**.

That’s key to prevent multiple scenarios for extinction.

Larry **Diamond**, December **1995**. Senior fellow at the Hoover Institution. “Promoting Democracy in the 1990s,” http://wwics.si.edu/subsites/ccpdc/pubs/di/1.htm.

On any list of the most important potential threats to world order and national security in the coming decade, these six should figure prominently: a hostile, expansionist Russia; a hostile, expansionist China; the spread of fundamentalist Islamic, anti-Western regimes; the spread of political terrorism from all sources; sharply increased immigration pressures; and ethnic conflict that escalates into large-scale violence, civil war, refugee flows, state collapse, and general anarchy. Some of these potential threats interact in significant ways with one another, but they all share a common underlying connection. In each instance, the development of democracy is an important prophylactic, and in some cases the only long- term protection, against disaster. A HOSTILE, EXPANSIONIST RUSSIA Chief among the threats to the security of Europe, the United States, and Japan would be the reversion of Russia--with its still very substantial nuclear, scientific, and military prowess--to a hostile posture toward the West. Today, the Russian state (insofar as it continues to exist) **appears perched on the precipice of capture by ultranationalist**, anti-Semitic, **neo-imperialist forces seeking a new era of** pogroms, **conquest**, and "greatness." These forces feed on the weakness of democratic institutions, the divisions among democratic forces, and the generally dismal economic and political state of the country under civilian, constitutional rule. Numerous observers speak of "Weimar Russia." As in Germany in the 1920s, the only alternative to a triumph of fascism (or some related "ism" deeply hostile to freedom and to the West) is the development of an effective democratic order. Now, as then, this project must struggle against great historical and political odds, and it seems feasible only with international economic aid and support for democratic forces and institutions. A HOSTILE, EXPANSIONIST CHINA In China, the threat to the West emanates from success rather than failure and is less amenable to explicit international assistance and inducement. Still, a China moving toward democracy--gradually constructing a real constitutional order, with established ground rules for political competition and succession and civilian control over the military--seems a much better prospect to be a responsible player on the regional and international stage. Unfair trade practices, naval power projection, territorial expansion, subversion of neighboring regimes, and bullying of democratic forces in Hong Kong and Taiwan are all more likely the more China resists political liberalization. So is a political succession crisis that could disrupt incremental patterns of reform and induce competing power players to take risks internationally to advance their power positions at home. A China that is building an effective rule of law seems a much better prospect to respect international trading rules that mandate protection for intellectual property and forbid the use of prison labor. And on these matters of legal, electoral, and institutional development, international actors can help. THE SPREAD OF ISLAMIC FUNDAMENTALISM Increasingly, Europeans and Americans worry about the threat from fundamentalist Islam. But fundamentalist movements do not mobilize righteous anger and absolute commitment in a vacuum. They feed on the utter failure of decadent political systems to meet the most elementary expectations for material progress and social justice. Some say the West must choose between corrupt, repressive regimes that are at least secular and pro-Western and Islamic fundamentalist regimes that will be no less repressive, but anti-Western. That is a false choice in Egypt today, as it was in Iran or Algeria--at least until their societies became so polarized as to virtually obliterate the liberal center. It is precisely the corruption, arrogance, oppression, and gross inefficacy of ruling regimes like the

Continues…

current one in Egypt that stimulate the Islamic fundamentalist alternative. Though force may be needed--and legitimate--to meet an armed challenge, history teaches that decadent regimes cannot hang on forever through force alone. In the long run, the only reliable bulwark against revolution or anarchy is good governance--and that requires far-reaching political reform. In Egypt and some other Arab countries, such reform would entail a gradual program of political liberalization that counters corruption, reduces state interference in the economy, responds to social needs, and gives space for moderate forces in civil society to build public support and understanding for further liberalizing reforms. In Pakistan and Turkey, it would mean making democracy work: stamping out corruption, reforming the economy, mobilizing state resources efficiently to address social needs, devolving power, guaranteeing the rights of ethnic and religious minorities, and--not least-- reasserting civilian control over the military. In either case, the fundamentalist challenge can be met only by moving (at varying speeds) toward, not away from, democracy. POLITICAL TERRORISM Terrorism and immigration pressures also commonly have their origins in political exclusion, social injustice, and bad, abusive, or tyrannical governance. Overwhelmingly, **the sponsors of international terrorism are among the world's most authoritarian regimes**: Iran, Iraq, Syria, Libya, Sudan. And locally within countries, the agents of terrorism tend to be either the fanatics of antidemocratic, ideological movements or aggrieved ethnic and regional minorities who have felt themselves socially marginalized and politically excluded and insecure: Sri Lanka's Tamils, Turkey's Kurds, India's Sikhs and Kashmiris. To be sure, democracies must vigorously mobilize their legitimate instruments of law enforcement to counter this growing threat to their security. But a more fundamental and enduring assault on international terrorism requires political change to bring down zealous, paranoiac dictatorships and to allow aggrieved groups in all countries to pursue their interests through open, peaceful, and constitutional means. As for immigration, it is true that people everywhere are drawn to prosperous, open, dynamic societies like those of the United States, Canada, and Western Europe. But the sources of large (and rapid) immigration flows to the West increasingly tend to be countries in the grip of civil war, political turmoil, economic disarray, and poor governance: Vietnam, Cuba, Haiti, Central America, Algeria. And in Mexico, authoritarianism, corruption, and social injustice have held back human development in ways that have spawned the largest sustained flow of immigrants to any Western country--a flow that threatens to become a floodtide if the Zedillo government cannot rebuild Mexico's economy and societal consensus around authentic democatic reform. In other cases--Ethiopia, Sudan, Nigeria, Afghanistan--immigration to the West has been modest only because of the greater logistical and political difficulties. However, in impoverished areas of Africa and Asia more remote from the West, disarray is felt in the flows of refugees across borders, hardly a benign development for world order. Of course, population growth also heavily drives these pressures. But a common factor underlying all of these crisis-ridden emigration points is the absence of democracy. And, strikingly, populations grow faster in authoritarian than democratic regimes.4 ETHNIC CONFLICT Apologists for authoritarian rule--as in Kenya and Indonesia--are wont to argue that multiparty electoral competition breeds ethnic rivalry and polarization, while strong central control keeps the lid on conflict. But when multiple ethnic and national identities are forcibly suppressed, the lid may violently pop when the regime falls apart. The fate of Yugoslavia, or of Rwanda, dramatically refutes the canard that authoritarian rule is a better means for containing ethnic conflict. Indeed, so does the recent experience of Kenya, where ethnic hatred, land grabs, and violence have been deliberately fostered by the regime of President Daniel arap Moi in a desperate bid to divide the people and thereby cling to power. Overwhelmingly, theory and evidence show that the path to peaceful management of ethnic pluralism lies not through suppressing ethnic identities and superimposing the hegemony of one group over others. Eventually, such a formula is bound to crumble or be challenged violently. Rather, sustained interethnic moderation and peace follow from the frank recognition of plural identities, legal protection for group and individual rights, devolution of power to various localities and regions, and political institutions that encourage bargaining and accommodation at the center. Such institutional provisions and protections are not only significantly more likely under democracy, they are only possible with some considerable degree of democracy.5 OTHER THREATS This hardly exhausts the lists of threats to our security and well-being in the coming years and decades. In the former Yugoslavia nationalist aggression tears at the stability of Europe and could easily spread. The flow of illegal drugs intensifies through increasingly powerful international crime syndicates that have made common cause with authoritarian regimes and have utterly corrupted the institutions of tenuous, democratic ones. Nuclear, chemical, and biological weapons continue to proliferate. The very source of life on Earth, the global ecosystem, appears increasingly endangered. Most of these new and unconventional threats to security are associated with or aggravated by the weakness or absence of democracy, with its provisions for legality, accountability, popular sovereignty, and openness. LESSONS OF THE TWENTIETH CENTURY The experience of this century offers important lessons. Countries that govern themselves in a truly democratic fashion do not go to war with one another. They do not aggress against their neighbors to aggrandize themselves or glorify their leaders. Democratic governments do not ethnically "cleanse" their own populations, and they are much less likely to face ethnic insurgency. Democracies do not sponsor terrorism against one another. They do not build weapons of mass destruction to use on or to threaten one another. Democratic countries form more reliable, open, and enduring trading partnerships. In the long run they offer better and more stable climates for investment. They are more environmentally responsible because they must answer to their own citizens, who organize to protest the destruction of their environments. They are better bets to honor international treaties since they value legal obligations and because their openness makes it much more difficult to breach agreements in secret. Precisely because, within their own borders, they respect competition, civil liberties, property rights, and the rule of law, democracies are the only reliable foundation on which a new world order of international security and prosperity can be built.

\*\* Democracies support peace for multiple reasons ---- even if they fight *sometimes* it is much less than nondemocracies.

Morton **Halperin et al**, **2004**. Senior Fellow @ Center for American Progress, Joseph T. Siegle, Associate Director @ Center for Institutional Reform and the Informal Sector, and Michael M. Weinstein, Director of Programs @ Robin Hood Foundation. “The Democracy Advantage: How Democracies Promote Prosperity and Peace”, p. 100.

The theory that democracy is a force for peace makes sense. Societies built on a respect for human rights and the rule of law have a strong basis for resolving their differences in a nonviolent, legal, and morally defensible manner. And their governments are less likely than dictatorships to seek to dehumanize the leaders of competing democratic states, and more likely to engage in constructive dialogue.' These attitudes also appear to apply to those that have not yet achieved democracy but are on the road to it. Public opinion surveys in Eastern Europe and Russia suggest that the more citizens in democratizing states perceive their neighbors as democratizing, the less they expect to fight them.' Democratic leaders and the societies that elected them are also accustomed to balancing multiple and competing interests. Therefore, they accept the inevitability of disagreement and the need for nonviolent compromise. Nondemocratic leaders, in contrast, are more likely to learn their political skills in environments that reward the use of coercion to resolve disputes.' Furthermore, by design, democratic executives cannot act unilaterally. They need the support of cabinet ministers and the legislature, and must also take public opinion into consideration—all brakes on their power to instigate war. In the event that two democracies are contemplating a conflict, moderates in each respective society can lobby public opinion to oppose such action.' Finally, democracies are risk-averse. Recognizing the high and destabilizing costs of war, their leaders have incentives to pursue moderate policies and avoid conflict when it is possible to do so. If both sides of a disagreement adhere to these norms, then armed conflict can probably be avoided. Critics of the notion of a democratic peace have focused on the extreme version of the proposition—that democracies never go to war with each other"—an argument that few proponents actually make. Potential exceptions that these detractors point to include the war between the United States and England in 1812, Spain in the Spanish-American War, Wilhemine Germany in World War I and Finland's siding with the Axis Powers (to fight the Soviets) in World War 11.29 For our purposes, even if these exceptions were conceded by the democratic-peace camp, democracies would still have a substantially lower probability of interstate conflict than other political systems. Using data from 1816 to 1980, two skeptics of the democratic peace argument, Farber and Gowa, note that the probability of democracies fighting one another (0.02 percent) is markedly lower than the rate of war between nondemocracies (0.09 percent).3° From a policy perspective, it is this lower likelihood rather than absolute guarantees that are most relevant.

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# environment

Democracy key to public influence on environmental policy --- that’s the key to preventing environmental destruction in China.

Pan **Yue**, 12/5/**2006**. Deputy director of China's State Environmental Protection Administration (SEPA). “The environment needs public participation,” China Dialogue, <http://www.chinadialogue.net/article/show/single/en/604-The-environment-needs-public-participation>.

In China, environmental protection is an increasingly pressing issue. Not only are pollution and ecological degradation becoming ever more serious, but also people are more and more unsatisfied about the situation. The speed with which we are polluting the environment far outstrips our efforts to clean it up. Why is this? China has a large population but few resources, and our production and consumption methods are too out of date. But **at the root of the problem lies a more significant cause -- the lack of public participation in China**. The initial motivation for the world environmental protection movement came from the public, without their participation it would not exist. In 1962, the US marine biologist Rachel Carson published her landmark book, Silent Spring, which focused on the environmental and human costs of pesticide use. This was a starting point in the development of environmental protection. On April 22, 1970, 20 million Americans took part in environmental demonstrations across the US. “Earth Day” is still celebrated on that date, and was a major event in the development of modern environmental participation. Take Japan as an example; although the country faces a greater pressure on resources than China, it is a world leader in protecting the environment. Visitors to Japan in recent years are invariably impressed by the country’s clean environment. But Japan also experienced the serious social consequences of pollution midway through the last century, when it underwent large-scale industrialisation. In the 1960s, Japanese victims of pollution first brought lawsuits against the companies responsible for environmental degradation. Japan’s media began to investigate and report on environmental accidents. In many places, grass-roots environmental groups were founded to combat polluting industries. By 1970, 45% of Japanese citizens opposed economic development that did not take environmental protection into account, overwhelming the 33% who polled in favour of unrestricted economic growth. Electoral support for Japan’s Liberal Democratic Party (LDP) declined from 58% to 48% as a result. Broad public participation forced both the LDP and the Diet to take notice of the environmental and social effects of pollution. In 1967, Japan issued the Basic Law for Environmental Pollution Control, and enacted the Law for the Compensation of Pollution-Related Health Injuries in 1973. A series of other environmental rules and regulations were put into place in the following years. In particular, the Basic Law for the Recycling–based Society employs the concept of “environmental culture” to promote public awareness of environmental protection and its moral value. The law promotes the use of new energy sources and compulsory limits on the consumption of natural resources. It not only regulates waste output but also encourages recycling and the safe disposal of non-recyclable waste. In the past 10 years, Japan has become a recycling-based society which strikes a balance between environmental protection and economic growth. Their example can show us that resolving the problems of pollution needs both governmental and citizen engagement, and that public participation and a democratic legal system are important factors in environmental protection. In China, **the major problem is that environmental protection laws are not strictly observed and implemented due to a lack of democratic legal mechanisms for public participation**. As early as 1978, the government stated clearly that where serious pollution is occurring, if no measures are put in place to improve this for a long time, it will be established who is personally responsible, and the enterprise in question will be shut down. Financial penalties are also to be applied and legal action taken in serious cases. But in the past 20 years, how many polluters -- businesspeople or officials -- have ever been penalised? How many government policies that have caused pollution and ecological damage have ever been corrected? And to what extent are we following the sustainable development strategy that was put forward in 1992?

Chinese environmental destruction causes extinction.

**Salon**, 10/29/**1997**. “The real China threat,” <http://www.salon.com/news/1997/10/29news.html>.

China's environmental disaster threatens **not only the Chinese people** -- who are dying in the hundreds of thousands every year from staggering levels of air and water pollution -- **but all humanity**. With its gigantic population and booming economy, China can single-handedly guarantee that climate change, ozone depletion and other deadly hazards become a reality for people the world over. In the back of our minds, Americans may suspect that China is an environmental wasteland -- after all, we know what happened in the Soviet Union. But the truth has yet to be revealed in all its ghastly vividness, not least because of China's restrictions on foreign journalists. I recently spent six weeks traveling unmonitored throughout China, interviewing everyone from senior government officials and scientific experts to unpaid workers and newly prosperous peasants. Everywhere, it seemed, the land had been scalped, the water poisoned, the air made toxic and dark Five of the 10 most air-polluted cities in the world are in China, and one of every four deaths is caused by lung disease. Yet coal consumption will triple over the next 25 years, making China the world's leading greenhouse gas producer and all but dooming global efforts to reduce carbon dioxide emissions by the 60 to 80 percent recommended by U.N. scientists.

#### Chinese pollution turns the asia impact

Nathan **Nankivell**, 1/11/**2006**. Senior Researcher at the Office of the Special Advisor Policy, Maritime Forces Pacific Headquarters, Canadian Department of National Defence. China's Pollution and the Threat to Domestic and Regional Stability,” ZMag, <http://www.zmag.org/znet/viewArticle/4632>.

Nationalists in surrounding states could use pollution as a rallying point to muster support for anti-Chinese causes. For example, attacks on China's environmental management for its impact on surrounding states like Japan, could be used to argue against further investment in the country or be highlighted during territorial disputes in the East China Sea to agitate anti-Chinese sentiment. While **nationalism** does not imply conflict, it **could reduce patterns of cooperation in the region and hopes for balanced and effective multilateral institutions and dialogues.** Finally, China's seemingly insatiable appetite for timber and other resources, such as fish, are fuelling illegal exports from nations like Myanmar and Indonesia. As these states continue to deplete key resources, they too will face problems in the years to come and hence the impact on third nations must be considered.

Chinese environmental policies would be effective but autocracy blocks enforcement.

Thomas R. **Johnson**, April **2008**. University of Glasgow. “New Opportunities, Same Constraints: Environmental Protection and China's New Development Path,” Politics 28.2, Wiley InterScience.

The green GDP and environmental storm initiatives show how SEPA has been relatively successful in positioning itself at the forefront of a policy window created by the current leadership's new development direction that is arguably underpinned by environmental and resource concerns. This has enabled SEPA to introduce policies that are unprecedented in the People's Republic of China, both in terms of the 'carrot' of green GDP which offers incentives to officials to move away from GDP-centric development, and the 'stick' of the environmental storms whereby SEPA showed a previously lacking determination, backed up by central government support, in taking on illegal projects. Aided by the communication skills of Pan Yue, a former journalist who has garnered significant media attention, these initiatives have facilitated the raising of SEPA's profile, and the profile of environmental issues overall. Ensuring that environmental issues maintain a high profile is important for China's long-term environmental prospects, even considering that public opinion does not have the same salience in China as it does in liberal democracies. However, the two case studies also demonstrate the difficulties that the central government encounters as it attempts to effect more balanced development in the face of powerful vested interests in a highly fragmented political system. Although the green GDP project is ongoing, it has so far largely failed to change incentives. And, apart from their short-term impact, the environmental storms merely highlight deeper shortcomings in China's environmental governance regime. **It remains to be seen whether or not these shortcomings can be addressed in time to prevent further significant environmental degradation**, although the upgrading of SEPA to full ministerial status, apparently imminent at the time of writing (Lam, 2008), would be a positive step in this direction. Finally, while it is true that the business lobby is strong in democracies, there is evidence to suggest that this can be overcome or constrained by environmentally conscious social forces (Payne, 1995, p. 45). Furthermore, pressure from economic interests in democracies is likely to occur at the policymaking stage rather than at the implementation stage as has been the case in China. The prospects for any significant realignment in the relationship between economic growth and environmental and resource issues in China appear unlikely in the short term at least, particularly **when in its authoritarian political system largely unaccountable political elites are able to resist such steps**.

# Cp

## Overview

Conceded second plank

#### should ban foreign arm sales and conflict without an imminent threat.

Solves their offense

## asdf

#### OLC is binding – reversing OLC is unheard of – it has precedential value – that’s Morrison

#### OLC rulings hold binding precedential value --- the President has an incentive to defer to those rulings in order to maintain a unitary voice on executive legal policy.

Arthur Garrison, 2013. Assistant Professor of Criminal Justice at Kutztown University. Dr. Garrison received a B.S. from Kutztown University, a M.S. from West Chester University, and a Doctor of Law and Policy from Northeastern University. “THE OPINIONS BY THE ATTORNEY GENERAL AND THE OFFICE OF LEGAL COUNSEL: HOW AND WHY THEY ARE SIGNIFICANT,” Albany Law Review, 76 Alb. L. Rev. 217, Lexis.

Various Attorneys General have reflected on the approach of Wirt and Legare that an Attorney General opinion should be approached in similar matter to that of a judge. [n48](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true" \l "n48) Similar to a judge, the Attorney General is bound to make determinations of law, [n49](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n49) not to rule on hypothetical cases, [n50](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n50) and prior Attorneys General opinions have precedential authority on subsequent Attorneys General. [n51](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n51) Attorney General William Moody summarized the prevailing view on the authority of an Attorney General opinion when he opined in 1904:  
Of course the opinion of the Attorney-General, when rendered in a proper case - as must be the presumption  [\*231]  always from the fact that it is rendered - must be controlling and conclusive, establishing a rule for the guidance of other officers of the Government, and must not be treated as nugatory and ineffective…  
If a question is presented to the Attorney-General in accordance with law - that is, if it is submitted by the President or the head of a Department - if it is a question of law and actually arises in the administration of a Department, and the Attorney-General is of opinion that the nature of the question is general and important ... and therefore conceives that it is proper for him to deliver his opinion, I think it is final and authoritative under the law, and should be so treated ....  
... I entertain no doubt whatever that the Attorney-General's opinion should not only be justly persuasive ... but should be controlling and should be followed ... unless contrary to some authoritative judicial decision which puts the matter at rest. It is always to be assumed that an Attorney-General would not overlook or ignore such a decision in announcing his own conclusion. [n52](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n52)  
An opinion issued by past Attorneys General and those by the OLC serve as precedent that governs current opinion-making by the OLC. [n53](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n53) One significant attribute of the two centuries of Attorneys General and OLC opinions is that they create an institutional legal foundation and tradition that governs current opinion-making regardless of the personal views of a current Attorney General or head of OLC. [n54](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n54) Legal opinions need not nor should not be guided by the personal, political, or academic opinions held by the writer of  [\*232]  the opinion. Both precedent and institutional tradition obligate the writer to produce opinions that provide the best view of the law taking into account past opinions by the OLC and Attorneys General so as to protect the continuity of the law. [n55](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n55) As Walter Dellinger, in addressing the difference in his views on presidential power to deploy the military without prior congressional approval when he was a professor and when he was head of the OLC, observed,  
I expect that I would have seen a distinction between the planned deployment in Haiti and the sending of half a million troops into battle against one of the world's largest and best-equipped armies. Even apart from that, however, I am not sure I agree with the apparent assumption of Professor Tribe's letter and the Washington Times editorial - that it would be wrong for me to take a different view at the Office of Legal Counsel from the one I would have been expected to take as an academic. It might well be the case that I have actually learned something from the process of providing legal advice to the executive branch - both about the law (from the career lawyers at the Departments of Justice, State, and Defense and the National Security Council) and about the extraordinary complexity of interrelated issues facing the executive branch in general and the President in particular.  
Moreover, unlike an academic lawyer, an executive branch attorney may have an obligation to work within a tradition of reasoned, executive branch precedent, memorialized in formal written opinions. Lawyers in the executive branch have thought and written for decades about the President's legal authority to use force. Opinions of the Attorneys General and of the Office of Legal Counsel, in particular, have addressed the extent of the President's authority to use troops without the express prior approval of Congress. Although it would take us too far from the main subject here to discuss at length the stare decisis effect of these opinions on executive branch officers, the opinions do count for something. When lawyers who are now at the Office of Legal Counsel begin to research an issue, they are not expected to turn to what I might have written or said in a floor  [\*233]  discussion at a law professors' convention. They are expected to look to the previous opinions of the Attorneys General and of heads of this office to develop and refine the executive branch's legal positions. That is not to say that prior opinions will never be reversed, only that there are powerful and legitimate institutional reasons why one's views might properly differ when one sits in a different place. [n56](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n56)  
Both tradition and fidelity to the rule of law are important in justifying the authority of the Attorney General to issue legal opinions which are binding on the operations of the executive branch. [n57](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n57)Another reason is protection of the unitary President and the power of the President to control the operation of the executive branch. As General Bell observed,  
as a matter of good government, it is desirable generally that the executive branch adopt a single, coherent position with respect to the legal questions that arise in the process of government. Indeed, the commitment of our government to due process of law and to equal protection of the laws probably requires that our executive officers proceed in accordance with a coherent, consistent interpretation of the law, to the extent that it is administratively possible to do so. It is thus desirable for the President to entrust the final responsibility for interpretations of the law to a single officer or department. The Attorney General is the one officer in the executive branch who is charged by law with the duties of advising the others about the law and of representing the interests of the United States in general litigation in which questions of law arise. The task of developing a single, coherent view of the law is entrusted to the President himself, and by delegation to the Attorney General. That task is consistent with the nature of the office of Attorney General. [n58](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n58)  
As discussed below, the traditional view of the Office of the Attorney General regarding the quasi-judicial authority and status of legal opinions issued by the Attorney General is institutionalized within the OLC, the Department of Justice, and the executive  [\*234]  branch.

#### OLC rulings are binding on the executive branch.

Arthur Garrison, 2013. Assistant Professor of Criminal Justice at Kutztown University. Dr. Garrison received a B.S. from Kutztown University, a M.S. from West Chester University, and a Doctor of Law and Policy from Northeastern University. “THE OPINIONS BY THE ATTORNEY GENERAL AND THE OFFICE OF LEGAL COUNSEL: HOW AND WHY THEY ARE SIGNIFICANT,” Albany Law Review, 76 Alb. L. Rev. 217, Lexis.

The OLC receives "requests for opinions and legal advice from the Counsel to the President; general counsels of [the] O[ffice of] M[anagement and] Budget and other Executive Office of the President components; general counsels of Executive Branch departments and agencies; the Attorney General and other Department of Justice officials," [n71](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n71) all of which have significant impact on how the executive branch interprets the law. [n72](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n72) Although the OLC is a small government agency (a total of thirty-seven full-time employees, twenty-five of whom are attorneys with a budget of 7.6 million dollars), [n73](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n73) the OLC wields significant inter-branch power due to its authority to review and opine on the constitutionality of proposed legislation, [n74](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n74) specifically regarding separation of powers issues [n75](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n75) pending within Congress, as well as its quasi-judicial  [\*237]  power [n76](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n76) to issue binding determinations of the law within the executive branch and adjudicate executive branch intra-agency legal disputes. [n77](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n77) The foundation of the OLC's authority to issue binding opinions on the rest of the executive branch is based on the authority of the Attorney General to issue such opinions, and administrative traditions within the Department of Justice and the executive branch. [n78](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n78)

As a constitutional matter, the power of the Attorney General to issue opinions flows from the Article II power of the President. [n79](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n79) In a 2007 opinion by Steven Bradbury, the OLC explained the Article II power as follows:  
We nonetheless believe that an interpretation issued by the President that has not been repudiated (even if, as explained below, it is no longer formally in effect) should have  [\*238]  particular weight in our analysis of the position to be taken by the Executive Branch. Under Article II of the Constitution, the President has the authority to determine the Executive Branch's interpretation of the law: [n80](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true" \l "n80)  
The ordinary duties of officers prescribed by statute come under the general administrative control of the President by virtue of the general grant to him of the executive power, and he may properly supervise and guide their construction of the statutes under which they act in order to secure that unitary and uniform execution of the laws which Article II of the Constitution evidently contemplated in vesting general executive power in the President alone. [n81](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true" \l "n81)  
As discussed above, the Judiciary Act of 1789 established the position of the Attorney General,  
whose duty it shall be to prosecute and conduct all suits in the Supreme Court in which the United States shall be concerned, and to give his advice and opinion upon questions of law when required by the President of the United States, or when requested by the heads of any of the departments, touching any matters that may concern their departments... . [n82](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true" \l "n82)  
This responsibility has been codified [n83](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n83) and transferred to the OLC. [n84](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n84) The exclusive authority held by the OLC to determine the interpretation of the law for the executive branch is based on the authority historically and statutorily bestowed upon the Attorney General - "because the Attorney General's opinions are treated as "final and conclusive' they necessarily become the executive branch interpretation of the law." [n85](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true#n85)

During World War I, President Wilson issued Executive Order No. 2877 (May 31, 1918), in which he ordered, among other things, "that any opinion or ruling by the Attorney General upon any question of law arising in any Department, executive bureau, agency or office shall be treated as binding upon all departments,  [\*239]  bureaus, agencies or offices therewith concerned." [n86](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true" \l "n86)Although the executive order was based on an Act of Congress, [n87](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true" \l "n87) which lapsed six months after the end of World War I, the order continued to support the traditional foundation for the legal exclusivity and binding authority of Attorneys General opinions on the rest of the executive branch. [n88](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.47081.33858445962&target=results_DocumentContent&returnToKey=20_T18153716325&parent=docview&rand=1379281447712&reloadEntirePage=true" \l "n88)

### 2NC OLC – AT: Rubber-Stamping/Torture Memos

#### The precedent of the CP overwhelms --- previous OLC lawyers have deferred to expansive interpretations of executive power because that had been OLC precedent --- the CP shifts the doctrine such that in the area of [insert], the OLC will maintain that the executive lacks the authority [to/for…]. Any change in precedent would have to be made public and explained, deterring any rubber-stamping of future executives.

#### The mandated publishing plank solves OLC rubber-stamping --- this proposal was designed in response to the torture memos --- OLC lawyers were only willing to act as yes-men for the Bush administration because they believed that their memos would remain secret --- requiring public justifications for OLC rulings creates political pressure that ensures the OLC will remain independent --- that’s Weiner.

#### Mandatory publishing encourages OLC self-policing and prevents rubber-stamping.

Sudha Setty, March 2009. Assistant Professor of Law, Western New England College School of Law. “No More Secret Laws: How Transparency of Executive Branch Legal Policy Doesn't Let the Terrorists Win,” University of Kansas Law Review, 57 Kan. L. Rev. 579, Lexis.

One effect of nondisclosure is legal memoranda that reflect underdeveloped legal reasoning, a criticism that has been levied against previously secret OLC memoranda that were either leaked to the public or eventually declassified. [n138](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true" \l "n138) Making disclosure the default standard encourages self-policing by OLC lawyers. Disclosure would also generate political and public sentiment regarding legal policies, the same way that congressional lawmaking and judicial opinions are subject to public scrutiny. [n139](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true" \l "n139) Obviously, public outcry could influence an administration to back away from a controversial policy, as has apparently occurred in the case of the Bybee and Yoo Memoranda; or, as in the cases of Lincoln and Roosevelt, publication of legal policy could serve to garner public and congressional support for controversial policies.

Although some disclosures were made after the inception of the surveillance program to certain members of Congress, [n140](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true" \l "n140) the nature of  [\*603]  those communications were such that no benefit of accountability accrued. [n141](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true" \l "n141) For example, limited aspects of the warrantless wiretapping program were disclosed to the "Gang of Eight," a bipartisan group of members of Congress. [n142](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true" \l "n142) However, this information was not a complete briefing, and the attendees were under the severe restriction of not being allowed to reveal the information learned in the meetings, including to members of their staffs or other members of the congressional intelligence committees. [n143](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true" \l "n143)

If briefing attendees had any objection to the nature of the surveillance program, their only recourse was to complain to those providing the briefing, or discreetly communicate with the administration to voice their objections, with the hope that those objections would be considered. [n144](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true" \l "n144)

This disclosure becomes meaningless unless the recipients of the information - here, individuals within Congress - evince the will to disregard the unreasonable secrecy limitations placed on them by the administration, or to leverage their power in Congress to exert strong and meaningful pressure on the administration to change its legal policies. The public debate triggered by the disclosure would increase the likelihood that the administration would produce a more effective, lawful, policy. [n145](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true" \l "n145) For example, because information recipients were not able to exercise meaningful oversight or develop a cogent legislative response to the wiretapping program, [n146](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true" \l "n146) Congress is still looking for ways to negotiate the exposure of classified information while still conducting useful, legitimate oversight of the Department of Justice. [n147](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true" \l "n147)[\*604]

In response to such criticisms, the Bush administration contended that briefings to a limited number of congresspeople, even with the significant restrictions on information flow in place, constituted an adequate check on executive branch legal policy-making. [n148](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true#n148)

Mandatory disclosure would also force a higher level of self-policing by the OLC and the administration because of the crucial offensive and defensive functions served by the memoranda. Offensively, the OLC memoranda in question lay out an expansive view of presidential power regarding the legality of certain national security programs.

Defensively, providing legal comfort to protect interrogators and others against future prosecution is one of the primary reasons for the existence of certain OLC memoranda. [n149](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true#n149) CIA agents referred to the immunity provisions of the Bybee Memorandum as the "Golden Shield" that protected them from future liability if the interrogation techniques were ever made public. [n150](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true#n150) Evidence suggests that CIA interrogators would not have conducted any "enhanced interrogations" without specific legal approval, [n151](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true#n151) and that the Bybee and Yoo Memoranda's blanket immunity for those involved in the decision-making on the use of harsh techniques encouraged top White House officials to continue asking the CIA to use those techniques. [n152](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true#n152)

Because OLC opinions were essential to convince CIA operatives that they would not face prosecution or legal liability in the future, it is highly unlikely that such harsh techniques would ever have been used without the formal protection of an OLC opinion deeming the actions to be legal. [n153](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true#n153) If such memoranda were, as a default, made public, then the  [\*605]  internal pressure to offer the best possible assessment of whether the use of harsh techniques is legal would increase dramatically.

B. Nature of the Mandatory Disclosure  
A new disclosure requirement should apply to almost all OLC opinions and result in a timely disclosure to the public whenever possible. [n154](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true#n154) Exceptions should be made for limited purposes, including when a particular administrative agency requests confidentiality and does not actually rely on the advice given in a particular opinion. [n155](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true#n155)

Such a system would bring the OLC's disclosure practices into line with the exceptions to disclosure under the Freedom of Information Act, [n156](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true#n156) particularly Exemption No. 5, [n157](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true#n157) which protects the intra-agency deliberative process. [n158](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true#n158)

Mandatory disclosure - at least to Congress, if not to the public - for every OLC opinion that affirms the legality of policies which are then actually implemented by an administration would create a context in which legal comfort is available only from those opinions that are made public. [n159](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true#n159) This flexible standard would allow for retention of confidentiality when necessary and when the opinion sought does not shape actual policy, and would minimize the chilling effect on those seeking legal advice within an administration. [n160](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true#n160) Courts have made clear  [\*606]  that the administration should not be permitted "to develop a body of "secret law,' used by it ... but hidden behind a veil of privilege because it is not designated as "formal,' "binding,' or "final.'" [n161](http://www.lexisnexis.com.proxy.library.emory.edu/lnacui2api/frame.do?tokenKey=rsh-20.554422.1828807518&target=results_DocumentContent&returnToKey=20_T18154991147&parent=docview&rand=1379300948558&reloadEntirePage=true#n161)

# Afghan

### No escalation

### 2nc/1nr—NO Modeling

#### Extend our 1nc Law & Versteeg—No modeling

#### 1. US Court is out of date and out of line with global practices. Foreign courts have little reason to follow the US Supreme Court. 4 independent arguments disprove their modeling claim.

#### A. Foreign courts are not citing US court jurisprudence s

#### B. Lack of US soft power undermines the capacity of the Court to exercise international leadership

#### C. Decentralized model of judicial review does not adhere to the global norm.

#### D. The Court refuses to acknowledge the relevant contributions of foreign courts

#### AND, you should prefer our ev. Both authors are experts in Comparative Constitutional Law

#### Plan would just be seen as an internal US issue --- countries won't look to the case for ruling.

### Asdf

Anti-americanism is high

Means they don’t adopt ID in the first place

They don’t solve – drones and braoder counterterror

Conceded that means Afghanistan doesn’t model - Schor

### Ext corruption

#### Corruption is structurally entrenched in afghan justidical model

Their ev only says plan causes US cred / ends detention – their ICG ev says that borader court legitimacy is necessary

Aff doesn’t change this. Modelling doesn’t change the fact that judges can get rich by accepting money to bais the decision.

#### Corruption widespread. People are fleeing to the Taliban Courts

**Ahbrimkhil 2/19**/13 [Shakeela Ahbrimkhil, “[Corruption In Judicial System Leads People to Traditional Courts: Afghan Integrity Watch](http://www.tolonews.com/en/afghanistan/9508-corruption-in-judicial-system-leads-people-to-traditional-courts-afghan-integrity-watch),” Tolo News, Last Updated on Tuesday, 19 February 2013 21:34, pg. http://tinyurl.com/cx9ootl

Widespread corruption in Afghanistan's judicial system has led more than fifty percent of Afghans to use traditional courts and courts governed by the Taliban says Afghan Integrity Watch.

"Our figures show people choose unofficial organizations; mainly community councils, drumhead court-martial, and the Taliban trials—especially in cases related to land issues in which they are asked to pay a lot of money," said Yama Torabi, head of Afghan Integrity Watch.

Lawyers and observers also suggest that corruption in the Afghan judicial system is uncontrollable.

"The bureaucracy is devastating in the judicial system - it forces victims or people seeking justice to refer to other organizations. Everyone knows what they will have to face in the court system: bribes, outside pressure and people who meddle in the middle," said Moosa Fariwar, a Kabul University teacher.

Law enforcement, public hearings, an increase in judicial capacity and watch dogs, as well as providing public awareness are some of the resolutions to reducing corruption inside the country's judiciary system and providing greater justice says Afghan Integrity Watch.

The lack of courts in many parts of Afghanistan is another barrier forcing people to seek community councils and traditional methods to obtain justice.

The Supreme Court failed to respond to request for comment.

#### US model is rejected. The political court model is preferable

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

The rejection of the American model of judicial review comes in two principal flavours. Germany and Canada are America’s principal competitors in ¶ the export of constitutional norms. 13 Germany and Canada—along with the democracies they influenced¶ 14¶ —rejected the American constitutional assumption that law is separate from politics. Germany sought to craft a constitutional court sufficiently powerful to serve as¶ a counterweight to the legislature and able to arbitrate disputes between political elites.¶ 15¶ This is the political court model of judicial review. Canada sought to preserve a role for Parliament in ¶ interpreting the Constitution.¶ 16 This is the politicized rights model of judicial ¶ review. Both of these models provide stronger mechanisms by which citizens can hold courts accountable than does the American model. 17 Popular ¶ constitutionalism—the notion that citizens should play a role in construing ¶ their constitution—may have originated in the United States,¶ 18¶ but has thrived better abroad than at home. Pg. 538-539