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Simulated national security law debates inculcate agency and decision-making skills—that enables activism and avoids cooption

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The concept of simulations as an aspect of higher education, or in the law school environment, is not new.164 Moot court, after all, is a form of simulation and one of the oldest teaching devices in the law. What is new, however, is the idea of designing a civilian national security course that takes advantage of the doctrinal and experiential components of law school education and integrates the experience through a multi-day simulation. In 2009, I taught the first module based on this design at Stanford Law, which I developed the following year into a full course at Georgetown Law. It has since gone through multiple iterations. The initial concept followed on the federal full-scale Top Official (“TopOff”) exercises, used to train government officials to respond to domestic crises.165 It adapted a Tabletop Exercise, designed with the help of exercise officials at DHS and FEMA, to the law school environment. The Tabletop used one storyline to push on specific legal questions, as students, assigned roles in the discussion, sat around a table and for six hours engaged with the material. The problem with the Tabletop Exercise was that it was too static, and the rigidity of the format left little room, or time, for student agency. Unlike the government’s TopOff exercises, which gave officials the opportunity to fully engage with the many different concerns that arise in the course of a national security crisis as well as the chance to deal with externalities, the Tabletop focused on specific legal issues, even as it controlled for external chaos. The opportunity to provide a more full experience for the students came with the creation of first a one-day, and then a multi-day simulation. The course design and simulation continues to evolve. It offers a model for achieving the pedagogical goals outlined above, in the process developing a rigorous training ground for the next generation of national security lawyers.166 A. Course Design The central idea in structuring the NSL Sim 2.0 course **was to bridge the gap between theory and practice by conveying** doctrinal **material and** creating an alternative reality in which students would be forced to act upon legal concerns.167 The exercise itself is a form of problem-based learning, wherein students are given both agency and responsibility for the results. Towards this end, the structure must be at once bounded (directed and focused on certain areas of the law and legal education) and flexible (responsive to student input and decisionmaking). Perhaps the most significant weakness in the use of any constructed universe is the problem of authenticity. Efforts to replicate reality will inevitably fall short. There is simply too much uncertainty, randomness, and complexity in the real world. One way to address this shortcoming, however, is through design and agency. The scenarios with which students grapple and the structural design of the simulation must reflect the national security realm, even as students themselves must make choices that carry consequences. Indeed, to some extent, student decisions themselves must drive the evolution of events within the simulation.168 Additionally, **while authenticity matters, it is worth noting that at some level the fact that the incident does not take place in a real-world setting can be a great advantage**. That is, the simulation creates an environment where students can make mistakes and learn from these mistakes – without what might otherwise be devastating consequences. It also allows instructors to develop multiple points of feedback to enrich student learning in a way that would be much more difficult to do in a regular practice setting. NSL Sim 2.0 takes as its starting point the national security pedagogical goals discussed above. It works backwards to then engineer a classroom, cyber, and physical/simulation experience to delve into each of these areas. As a substantive matter, the course focuses on the constitutional, statutory, and regulatory authorities in national security law, placing particular focus on the interstices between black letter law and areas where the field is either unsettled or in flux. A key aspect of the course design is that it retains both the doctrinal and experiential components of legal education. Divorcing simulations from the doctrinal environment risks falling short on the first and third national security pedagogical goals: (1) analytical skills and substantive knowledge, and (3) critical thought. A certain amount of both can be learned in the course of a simulation; however, the national security crisis environment is not well-suited to the more thoughtful and careful analytical discussion. What I am thus proposing is a course design in which doctrine is paired with the type of experiential learning more common in a clinical realm. The former precedes the latter, giving students the opportunity to develop depth and breadth prior to the exercise. In order to capture problems related to adaptation and evolution, addressing goal [1(d)], the simulation itself takes place over a multi-day period. Because of the intensity involved in national security matters (and conflicting demands on student time), the model makes use of a multi-user virtual environment. The use of such technology is critical to creating more powerful, immersive simulations.169 It also allows for continual interaction between the players. Multi-user virtual environments have the further advantage of helping to transform the traditional teaching culture, predominantly concerned with manipulating textual and symbolic knowledge, into a culture where students learn and can then be assessed on the basis of their participation in changing practices.170 I thus worked with the Information Technology group at Georgetown Law to build the cyber portal used for NSL Sim 2.0. The twin goals of adaptation and evolution require that students be given a significant amount of agency and responsibility for decisions taken in the course of the simulation. To further this aim, I constituted a Control Team, with six professors, four attorneys from practice, a media expert, six to eight former simulation students, and a number of technology experts. Four of the professors specialize in different areas of national security law and assume roles in the course of the exercise, with the aim of pushing students towards a deeper doctrinal understanding of shifting national security law authorities. One professor plays the role of President of the United States. The sixth professor focuses on questions of professional responsibility. The attorneys from practice help to build the simulation and then, along with all the professors, assume active roles during the simulation itself. Returning students assist in the execution of the play, further developing their understanding of national security law. Throughout the simulation, the Control Team is constantly reacting to student choices. When unexpected decisions are made, professors may choose to pursue the evolution of the story to accomplish the pedagogical aims, or they may choose to cut off play in that area (there are various devices for doing so, such as denying requests, sending materials to labs to be analyzed, drawing the players back into the main storylines, and leaking information to the media). A total immersion simulation involves a number of scenarios, as well as systemic noise, to give students experience in dealing with the second pedagogical goal: factual chaos and information overload. The driving aim here is to teach students how to manage information more effectively. Five to six storylines are thus developed, each with its own arc and evolution. To this are added multiple alterations of the situation, relating to background noise. Thus, unlike hypotheticals, doctrinal problems, single-experience exercises, or even Tabletop exercises, the goal is not to eliminate external conditions, but to embrace them as part of the challenge facing national security lawyers. The simulation itself is problem-based, giving players agency in driving the evolution of the experience – thus addressing goal [2(c)]. This requires a realtime response from the professor(s) overseeing the simulation, pairing bounded storylines with flexibility to emphasize different areas of the law and the students’ practical skills. Indeed, each storyline is based on a problem facing the government, to which players must then respond, generating in turn a set of new issues that must be addressed. The written and oral components of the simulation conform to the fourth pedagogical goal – the types of situations in which national security lawyers will find themselves. Particular emphasis is placed on nontraditional modes of communication, such as legal documents in advance of the crisis itself, meetings in the midst of breaking national security concerns, multiple informal interactions, media exchanges, telephone calls, Congressional testimony, and formal briefings to senior level officials in the course of the simulation as well as during the last class session. These oral components are paired with the preparation of formal legal instruments, such as applications to the Foreign Intelligence Surveillance Court, legal memos, applications for search warrants under Title III, and administrative subpoenas for NSLs. In addition, students are required to prepare a paper outlining their legal authorities prior to the simulation – and to deliver a 90 second oral briefing after the session. To replicate the high-stakes political environment at issue in goals (1) and (5), students are divided into political and legal roles and assigned to different (and competing) institutions: the White House, DoD, DHS, HHS, DOJ, DOS, Congress, state offices, nongovernmental organizations, and the media. This requires students to acknowledge and work within the broader Washington context, even as they are cognizant of the policy implications of their decisions. They must get used to working with policymakers and to representing one of many different considerations that decisionmakers take into account in the national security domain. Scenarios are selected with high consequence events in mind, to ensure that students recognize both the domestic and international dimensions of national security law. Further alterations to the simulation provide for the broader political context – for instance, whether it is an election year, which parties control different branches, and state and local issues in related but distinct areas. The media is given a particularly prominent role. One member of the Control Team runs an AP wire service, while two student players represent print and broadcast media, respectively. The Virtual News Network (“VNN”), which performs in the second capacity, runs continuously during the exercise, in the course of which players may at times be required to appear before the camera. This media component helps to emphasize the broader political context within which national security law is practiced. Both anticipated and unanticipated decisions give rise to ethical questions and matters related to the fifth goal: professional responsibility. The way in which such issues arise stems from simulation design as well as spontaneous interjections from both the Control Team and the participants in the simulation itself. As aforementioned, professors on the Control Team, and practicing attorneys who have previously gone through a simulation, focus on raising decision points that encourage students to consider ethical and professional considerations. Throughout the simulation good judgment and leadership play a key role, determining the players’ effectiveness, with the exercise itself hitting the aim of the integration of the various pedagogical goals. Finally, there are multiple layers of feedback that players receive prior to, during, and following the simulation to help them to gauge their effectiveness. The Socratic method in the course of doctrinal studies provides immediate assessment of the students’ grasp of the law. Written assignments focused on the contours of individual players’ authorities give professors an opportunity to assess students’ level of understanding prior to the simulation. And the simulation itself provides real-time feedback from both peers and professors. The Control Team provides data points for player reflection – for instance, the Control Team member playing President may make decisions based on player input, giving students an immediate impression of their level of persuasiveness, while another Control Team member may reject a FISC application as insufficient. The simulation goes beyond this, however, focusing on teaching students how to develop (6) opportunities for learning in the future. Student meetings with mentors in the field, which take place before the simulation, allow students to work out the institutional and political relationships and the manner in which law operates in practice, even as they learn how to develop mentoring relationships. (Prior to these meetings we have a class discussion about mentoring, professionalism, and feedback). Students, assigned to simulation teams about one quarter of the way through the course, receive peer feedback in the lead-up to the simulation and during the exercise itself. Following the simulation the Control Team and observers provide comments. Judges, who are senior members of the bar in the field of national security law, observe player interactions and provide additional debriefing. The simulation, moreover, is recorded through both the cyber portal and through VNN, allowing students to go back to assess their performance. Individual meetings with the professors teaching the course similarly follow the event. Finally, students end the course with a paper reflecting on their performance and the issues that arose in the course of the simulation, develop frameworks for analyzing uncertainty, tension with colleagues, mistakes, and successes in the future. B. Substantive Areas: Interstices and Threats As a substantive matter, NSL Sim 2.0 is designed to take account of areas of the law central to national security. It focuses on specific authorities that may be brought to bear in the course of a crisis. The decision of which areas to explore is made well in advance of the course. It is particularly helpful here to think about national security authorities on a continuum, as a way to impress upon students that there are shifting standards depending upon the type of threat faced. One course, for instance, might center on the interstices between crime, drugs, terrorism and war. Another might address the intersection of pandemic disease and biological weapons. A third could examine cybercrime and cyberterrorism. **This is the most important determination, because the substance of the** doctrinal portion of the course and the **simulation follows from this decision**. For a course focused on the interstices between pandemic disease and biological weapons, for instance, preliminary inquiry would lay out which authorities apply, where the courts have weighed in on the question, and what matters are unsettled. Relevant areas might include public health law, biological weapons provisions, federal quarantine and isolation authorities, habeas corpus and due process, military enforcement and posse comitatus, eminent domain and appropriation of land/property, takings, contact tracing, thermal imaging and surveillance, electronic tagging, vaccination, and intelligence-gathering. The critical areas can then be divided according to the dominant constitutional authority, statutory authorities, regulations, key cases, general rules, and constitutional questions. **This**, then, **becomes a guide for the** doctrinal part of the **course, as well as the grounds on which the specific scenarios developed for the simulation** are based. The authorities, simultaneously, are included in an electronic resource library and embedded in the cyber portal (the Digital Archives) to act as a closed universe of the legal authorities needed by the students in the course of the simulation. Professional responsibility in the national security realm and the institutional relationships of those tasked with responding to biological weapons and pandemic disease also come within the doctrinal part of the course. The simulation itself is based on five to six storylines reflecting the interstices between different areas of the law. The storylines are used to present a coherent, non-linear scenario that can adapt to student responses. Each scenario is mapped out in a three to seven page document, which is then checked with scientists, government officials, and area experts for consistency with how the scenario would likely unfold in real life. For the biological weapons and pandemic disease emphasis, for example, one narrative might relate to the presentation of a patient suspected of carrying yersinia pestis at a hospital in the United States. The document would map out a daily progression of the disease consistent with epidemiological patterns and the central actors in the story: perhaps a U.S. citizen, potential connections to an international terrorist organization, intelligence on the individual’s actions overseas, etc. The scenario would be designed specifically to stress the intersection of public health and counterterrorism/biological weapons threats, and the associated (shifting) authorities, thus requiring the disease initially to look like an innocent presentation (for example, by someone who has traveled from overseas), but then for the storyline to move into the second realm (awareness that this was in fact a concerted attack). A second storyline might relate to a different disease outbreak in another part of the country, with the aim of introducing the Stafford Act/Insurrection Act line and raising federalism concerns. The role of the military here and Title 10/Title 32 questions would similarly arise – with the storyline designed to raise these questions. A third storyline might simply be well developed noise in the system: reports of suspicious activity potentially linked to radioactive material, with the actors linked to nuclear material. A fourth storyline would focus perhaps on container security concerns overseas, progressing through newspaper reports, about containers showing up in local police precincts. State politics would constitute the fifth storyline, raising question of the political pressures on the state officials in the exercise. Here, ethnic concerns, student issues, economic conditions, and community policing concerns might become the focus. The sixth storyline could be further noise in the system – loosely based on current events at the time. In addition to the storylines, a certain amount of noise is injected into the system through press releases, weather updates, private communications, and the like. The five to six storylines, prepared by the Control Team in consultation with experts, become the basis for the preparation of scenario “injects:” i.e., newspaper articles, VNN broadcasts, reports from NGOs, private communications between officials, classified information, government leaks, etc., which, when put together, constitute a linear progression. These are all written and/or filmed prior to the exercise. The progression is then mapped in an hourly chart for the unfolding events over a multi-day period. All six scenarios are placed on the same chart, in six columns, giving the Control Team a birds-eye view of the progression. C. How It Works As for the nuts and bolts of the simulation itself, it traditionally begins outside of class, in the evening, on the grounds that national security crises often occur at inconvenient times and may well involve limited sleep and competing demands.171 Typically, a phone call from a Control Team member posing in a role integral to one of the main storylines, initiates play. Students at this point have been assigned dedicated simulation email addresses and provided access to the cyber portal. The portal itself gives each team the opportunity to converse in a “classified” domain with other team members, as well as access to a public AP wire and broadcast channel, carrying the latest news and on which press releases or (for the media roles) news stories can be posted. The complete universe of legal authorities required for the simulation is located on the cyber portal in the Digital Archives, as are forms required for some of the legal instruments (saving students the time of developing these from scratch in the course of play). Additional “classified” material – both general and SCI – has been provided to the relevant student teams. The Control Team has access to the complete site. For the next two (or three) days, outside of student initiatives (which, at their prompting, may include face-to-face meetings between the players), the entire simulation takes place through the cyber portal. The Control Team, immediately active, begins responding to player decisions as they become public (and occasionally, through monitoring the “classified” communications, before they are released). This time period provides a ramp-up to the third (or fourth) day of play, allowing for the adjustment of any substantive, student, or technology concerns, while setting the stage for the breaking crisis. The third (or fourth) day of play takes place entirely at Georgetown Law. A special room is constructed for meetings between the President and principals, in the form of either the National Security Council or the Homeland Security Council, with breakout rooms assigned to each of the agencies involved in the NSC process. Congress is provided with its own physical space, in which meetings, committee hearings and legislative drafting can take place. State government officials are allotted their own area, separate from the federal domain, with the Media placed between the three major interests. The Control Team is sequestered in a different area, to which students are not admitted. At each of the major areas, the cyber portal is publicly displayed on large flat panel screens, allowing for the streaming of video updates from the media, AP wire injects, articles from the students assigned to represent leading newspapers, and press releases. Students use their own laptop computers for team decisions and communication. As the storylines unfold, the Control Team takes on a variety of roles, such as that of the President, Vice President, President’s chief of staff, governor of a state, public health officials, and foreign dignitaries. Some of the roles are adopted on the fly, depending upon player responses and queries as the storylines progress. Judges, given full access to each player domain, determine how effectively the students accomplish the national security goals. The judges are themselves well-experienced in the practice of national security law, as well as in legal education. They thus can offer a unique perspective on the scenarios confronted by the students, the manner in which the simulation unfolded, and how the students performed in their various capacities. At the end of the day, the exercise terminates and an immediate hotwash is held, in which players are first debriefed on what occurred during the simulation. Because of the players’ divergent experiences and the different roles assigned to them, the students at this point are often unaware of the complete picture. The judges and formal observers then offer reflections on the simulation and determine which teams performed most effectively. Over the next few classes, more details about the simulation emerge, as students discuss it in more depth and consider limitations created by their knowledge or institutional position, questions that arose in regard to their grasp of the law, the types of decision-making processes that occurred, and the effectiveness of their – and other students’ – performances. Reflection papers, paired with oral briefings, focus on the substantive issues raised by the simulation and introduce the opportunity for students to reflect on how to create opportunities for learning in the future. The course then formally ends.172 Learning, however, continues beyond the temporal confines of the semester. Students who perform well and who would like to continue to participate in the simulations are invited back as members of the control team, giving them a chance to deepen their understanding of national security law. Following graduation, a few students who go in to the field are then invited to continue their affiliation as National Security Law fellows, becoming increasingly involved in the evolution of the exercise itself. This system of vertical integration helps to build a mentoring environment for the students while they are enrolled in law school and to create opportunities for learning and mentorship post-graduation. It helps to keep the exercise current and reflective of emerging national security concerns. And it builds a strong community of individuals with common interests. CONCLUSION The legal academy has, of late, been swept up in concern about the economic conditions that affect the placement of law school graduates. The image being conveyed, however, does not resonate in every legal field. It is particularly inapposite to the burgeoning opportunities presented to students in national security. That the conversation about legal education is taking place now should come as little surprise. Quite apart from economic concern is the traditional introspection that follows American military engagement. It makes sense: law overlaps substantially with political power, being at once both the expression of government authority and the effort to limit the same. **The one-size fits all approach** currently **dominating the conversation in legal education, however, appears ill-suited to address the concerns raised** in the current conversation. **Instead of looking at law across the board, greater insight can be gleaned by looking at** the specific demands of the different fields themselves. This does not mean that the goals identified will be exclusive to, for instance, national security law, but it does suggest there will be greater nuance in the discussion of the adequacy of the current pedagogical approach. With this approach in mind, I have here suggested six pedagogical goals for national security. For following graduation, students must be able to perform in each of the areas identified – (1) understanding the law as applied, (2) dealing with factual chaos and uncertainty, (3) obtaining critical distance, (4) developing nontraditional written and oral communication skills, (5) exhibiting leadership, integrity, and good judgment in a high-stakes, highly-charged environment, and (6) creating continued opportunities for self-learning. They also must learn how to integrate these different skills into one experience, to ensure that they will be most effective when they enter the field. The problem with the current structures in legal education is that they fall short, in important ways, from helping students to meet these goals. Doctrinal courses may incorporate a range of experiential learning components, such as hypotheticals, doctrinal problems, single exercises, extended or continuing exercises, and tabletop exercises. These are important classroom devices. The amount of time required for each varies, as does the object of the exercise itself. But where they fall short is in providing a more holistic approach to national security law which will allow for the maximum conveyance of required skills. Total immersion **simulations**, which have not yet been addressed in the secondary literature for civilian education in national security law, may **provide an important way forward**. Such **simulations** also **cure shortcomings in other areas of experiential education**, such as clinics and moot court. It is in an effort to address these concerns that I developed **the simulation model** above. NSL Sim 2.0 certainly is not the only solution, but it **does provide a** starting point for moving forward. The approach draws on the strengths of doctrinal courses and embeds a total immersion simulation within a course. **It makes use of technology and physical space to engage students in a multi-day exercise, in which** they are given agency and responsibility for their decision making, resulting in a steep learning curve. While further adaptation of this model is undoubtedly necessary, it suggests one potential direction for the years to come.

Debate over a controversial point of action creates argumentative stasis—that’s key to avoid a devolution of debate into competing truth claims, which destroys the decision-making benefits of the activity

Steinberg and Freeley ‘13

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*Critical Thinking for Reasoned Decision Making*, Thirteen Edition

Debate is a means of settling differences, so there must be a controversy, a difference of opinion or a conflict of interest before there can be a debate. If everyone is in agreement on a feet or value or policy, there is no need or opportunity for debate; the matter can be settled by unanimous consent. Thus, for example, it would be pointless to attempt to debate "Resolved: That two plus two equals four,” because there is simply no controversy about this state­ment. Controversy is an essential prerequisite of debate. Where there is no clash of ideas, proposals, interests, or expressed positions of issues, there is no debate. Controversy invites decisive choice between competing positions. Debate cannot produce effective decisions without clear identification of a question or questions to be answered. For example, general argument may occur about the broad topic of illegal immigration. How many illegal immigrants live in the United States? What is the impact of illegal immigration and immigrants on our economy? What is their impact on our communities? Do they commit crimes? Do they take jobs from American workers? Do they pay taxes? Do they require social services? Is it a problem that some do not speak English? Is it the responsibility of employers to discourage illegal immigration by not hiring undocumented workers? Should they have the opportunity to gain citizenship? Does illegal immigration pose a security threat to our country? Do illegal immigrants do work that American workers are unwilling to do? Are their rights as workers and as human beings at risk due to their status? Are they abused by employers, law enforcement, housing, and businesses? How are their families impacted by their status? What is the moral and philosophical obligation of a nation state to maintain its borders? Should we build a wall on the Mexican border, establish a national identification card, or enforce existing laws against employers? Should we invite immigrants to become U.S. citizens? Surely you can think of many more concerns to be addressed by a conversation about the topic area of illegal immigration. Participation in this “debate” is likely to be emotional and intense. However, it is not likely to be productive or useful without focus on a particular question and identification of a line demarcating sides in the controversy. To be discussed and resolved effectively, controversies are best understood when seated clearly such that all parties to the debate share an understanding about the objec­tive of the debate. This enables focus on substantive and objectively identifiable issues facilitating comparison of competing argumentation leading to effective decisions. Vague understanding results in unfocused deliberation and poor deci­sions, general feelings of tension without opportunity for resolution, frustration, and emotional distress, as evidenced by the failure of the U.S. Congress to make substantial progress on the immigration debate. Of course, arguments may be presented without disagreement. For exam­ple, claims are presented and supported within speeches, editorials, and advertise­ments even without opposing or refutational response. Argumentation occurs in a range of settings from informal to formal, and may not call upon an audi­ence or judge to make a forced choice among competing claims. Informal dis­course occurs as conversation or panel discussion without demanding a decision about a dichotomous or yes/no question. However, by definition, debate requires "reasoned judgment on a proposition. The proposition is a statement about which competing advocates will offer alternative (pro or con) argumenta­tion calling upon their audience or adjudicator to decide. The proposition pro­vides focus for the discourse and guides the decision process. Even when a decision will be made through a process of compromise, it is important to iden­tify the beginning positions of competing advocates to begin negotiation and movement toward a center, or consensus position. It is frustrating and usually unproductive to attempt to make a decision when deciders are unclear as to what the decision is about. The proposition may be implicit in some applied debates (“Vote for me!”); however, when a vote or consequential decision is called for (as in the courtroom or in applied parliamentary debate) it is essential that the proposition be explicitly expressed (“the defendant is guilty!”). In aca­demic debate, the proposition provides essential guidance for the preparation of the debaters prior to the debate, the case building and discourse presented during the debate, and the decision to be made by the debate judge after the debate. Someone disturbed by the problem of a growing underclass of poorly educated, socially disenfranchised youths might observe, “Public schools are doing a terri­ble job! They' are overcrowded, and many teachers are poorly qualified in their subject areas. Even the best teachers can do little more than struggle to maintain order in their classrooms." That same concerned citizen, facing a complex range of issues, might arrive at an unhelpful decision, such as "We ought to do some­thing about this” or, worse, “It’s too complicated a problem to deal with." Groups of concerned citizens worried about the state of public education could join together to express their frustrations, anger, disillusionment, and emotions regarding the schools, but without a focus for their discussions, they could easily agree about the sorry state of education without finding points of clarity or potential solutions. A gripe session would follow. But if a precise question is posed—such as “What can be done to improve public education?”—then a more profitable area of discussion is opened up simply by placing a focus on the search for a concrete solution step. One or more judgments can be phrased in the form of debate propositions, motions for parliamentary debate, or bills for legislative assemblies, The statements "Resolved: That the federal government should implement a program of charter schools in at-risk communities” and “Resolved; That the state of Florida should adopt a school voucher program" more clearly identify specific ways of dealing with educational problems in a manageable form, suitable for debate. They provide specific policies to be investigated and aid discussants in identifying points of difference. This focus contributes to better and more informed decision making with the potential for better results. In aca­demic debate, it provides better depth of argumentation and enhanced opportu­nity for reaping the educational benefits of participation. In the next section, we will consider the challenge of framing the proposition for debate, and its role in the debate. To have a productive debate, which facilitates effective decision making by directing and placing limits on the decision to be made, the basis for argument should be clearly defined. If we merely talk about a topic, such as ‘"homeless­ness,” or “abortion,” Or “crime,” or “global warming,” we are likely to have an interesting discussion but not to establish a profitable basis for argument. For example, the statement “Resolved: That the pen is mightier than the sword” is debatable, yet by itself fails to provide much basis for dear argumen­tation. If we take this statement to mean *Iliad* the written word is more effec­tive than physical force for some purposes, we can identify a problem area: the comparative effectiveness of writing or physical force for a specific purpose, perhaps promoting positive social change. (Note that “loose” propositions, such as the example above, may be defined by their advocates in such a way as to facilitate a clear contrast of competing sides; through definitions and debate they “become” clearly understood statements even though they may not begin as such. There are formats for debate that often begin with this sort of proposition. However, in any debate, at some point, effective and meaningful discussion relies on identification of a clearly stated or understood proposition.) Back to the example of the written word versus physical force. Although we now have a general subject, we have not yet stated a problem. It is still too broad, too loosely worded to promote weII-organized argument. What sort of writing are we concerned with—poems, novels, government documents, web­site development, advertising, cyber-warfare, disinformation, or what? What does it mean to be “mightier" in this context? What kind of physical force is being compared—fists, dueling swords, bazookas, nuclear weapons, or what? A more specific question might be, “Would a mutual defense treaty or a visit by our fleet be more effective in assuring Laurania of our support in a certain crisis?” The basis for argument could be phrased in a debate proposition such as “Resolved: That the United States should enter into a mutual defense treaty with Laurania.” Negative advocates might oppose this proposition by arguing that fleet maneuvers would be a better solution. This is not to say that debates should completely avoid creative interpretation of the controversy by advo­cates, or that good debates cannot occur over competing interpretations of the controversy; in fact, these sorts of debates may be very engaging. The point is that debate is best facilitated by the guidance provided by focus on a particular point of difference, which will be outlined in the following discussion.

Decisionmaking is the most portable and flexible skill—key to all facets of life and advocacy

Steinberg and Freeley ‘13

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In the spring of 2011, facing a legacy of problematic U.S, military involvement in Bosnia, Iraq, and Afghanistan, and criticism for what some saw as slow sup­port of the United States for the people of Egypt and Tunisia as citizens of those nations ousted their formerly American-backed dictators, the administration of President Barack Obama considered its options in providing support for rebels seeking to overthrow the government of Muammar el-Qaddafi in Libya. Public debate was robust as the administration sought to determine its most appropriate action. The president ultimately decided to engage in an international coalition, enforcing United Nations Security Council Resolution 1973 through a number of measures including establishment of a no-fly zone through air and missile strikes to support rebels in Libya, but stopping short of direct U.S. intervention with ground forces or any occupation of Libya. While the action seemed to achieve its immediate objectives, most notably the defeat of Qaddafi and his regime, the American president received both criticism and praise for his mea­sured yet assertive decision. In fact, the past decade has challenged American leaders to make many difficult decisions in response to potentially catastrophic problems. Public debate has raged in chaotic environment of political division and apparent animosity, The process of public decision making may have never been so consequential or difficult. Beginning in the fall of 2008, Presidents Bush and Obama faced a growing eco­nomic crisis and responded in part with '’bailouts'' of certain Wall Street financial entities, additional bailouts of Detroit automakers, and a major economic stimu­lus package. All these actions generated substantial public discourse regarding the necessity, wisdom, and consequences of acting (or not acting). In the summer of 2011, the president and the Congress participated in heated debates (and attempted negotiations) to raise the nation's debt ceiling such that the U.S. Federal Govern­ment could pay its debts and continue government operations. This discussion was linked to a debate about the size of the exponentially growing national debt, gov­ernment spending, and taxation. Further, in the spring of 2012, U.S. leaders sought to prevent Iran from developing nuclear weapon capability while gas prices in the United States rose, The United States considered its ongoing military involvement in Afghanistan in the face of nationwide protests and violence in that country1 sparked by the alleged burning of Korans by American soldiers, and Americans observed the actions of President Bashir Al-Assad and Syrian forces as they killed Syrian citizens in response to a rebel uprising in that nation and considered the role of the United States in that action. Meanwhile, public discourse, in part generated and intensified by the cam­paigns of the GOP candidates for president and consequent media coverage, addressed issues dividing Americans, including health care, women's rights to reproductive health services, the freedom of churches and church-run organiza­tions to remain true to their beliefs in providing (or electing not to provide) health care services which they oppose, the growing gap between the wealthiest 1 percent of Americans and the rest of the American population, and continued high levels of unemployment. More division among the American public would be hard to imagine. Yet through all the tension, conflict was almost entirely ver­bal in nature, aimed at discovering or advocating solutions to growing problems. Individuals also faced daunting decisions. A young couple, underwater with their mortgage and struggling to make their monthly payments, considered walking away from their loan; elsewhere a college sophomore reconsidered his major and a senior her choice of law school, graduate school, or a job and a teenager decided between an iPhone and an iPad. Each of these situations called for decisions to be made. Each decision maker worked hard to make well-reasoned decisions. Decision making is a thoughtful process of choosing among a variety of options for acting or thinking. It requires that the decider make a choice. Life demands decision making. We make countless individual decisions every day. To make some of those decisions, we work hard to employ care and consider­ation: others scorn to just happen. Couples, families, groups of friends, and co­workers come together to make choices, and decision-making bodies from committees to juries to the U.S. Congress and the United Nations make deci­sions that impact us all. Every profession requires effective and ethical decision making, as do our school, community, and social organizations. We all engage in discourse surrounding our necessary decisions every day. To refinance or sell one’s home, to buy a high-performance SUV or an eco­nomical hybrid car, what major to select, what to have for dinner, what candi­date to vote for, paper or plastic, all present us with choices. Should the president deal with an international crisis through military invasion or diplomacy? How should the U.S. Congress act to address illegal immigration? Is the defendant guilty as accused? Should we watch The Daily Show or the ball game? And upon what information should I rely to make my decision? Certainly some of these decisions are more consequential than others. Which amendment to vote for, what television program to watch, what course to take, which phone plan to purchase, and which diet to pursue—all present unique challenges. At our best, we seek out research and data to inform our decisions. Yet even the choice of which information to attend to requires decision making. In 2006, Time magazine named YOU its "Person of the Year.” Congratulations! Its selection was based on the participation not of “great men” in the creation of his­tory, but rather on the contributions of a community of anonymous participants in the evolution of information. Through blogs, online networking, YouTube, Facebook, Twitter, Wikipedia, and many other “wikis," and social networking sites, knowledge and truth are created from the bottom up, bypassing the authoritarian control of newspeople, academics, and publishers. Through a quick keyword search, we have access to infinite quantities of information, but how do we sort through it and select the best information for our needs? Much of what suffices as information is not reliable, or even ethically motivated. The ability of every decision maker to make good, reasoned, and ethical deci­sions' relies heavily upon their ability to think critically. Critical thinking enables one to break argumentation down to its component parts in order to evaluate its relative validity and strength, And, critical thinking offers tools enabling the user to better understand the' nature and relative quality of the message under consider­ation. Critical thinkers are better users of information as well as better advocates. Colleges and universities expect their students to develop their critical thinking skills and may require students to take designated courses to that end. The importance and value of such study is widely recognized. The executive order establishing California's requirement states; Instruction in critical thinking is designed to achieve an understanding of the relationship of language to logic, which would lead to the ability to analyze, criticize and advocate ideas, to reason inductively and deductively, and to reach factual or judgmental conclusions based on sound inferences drawn from unambigu­ous statements of knowledge or belief. The minimal competence to be expected at the successful conclusion of instruction in critical thinking should be the ability to distinguish fact from judgment, belief from knowledge, and skills in elementary inductive arid deductive processes, including an under­standing of die formal and informal fallacies of language and thought. Competency in critical thinking is a prerequisite to participating effectively in human affairs, pursuing higher education, and succeeding in the highly com­petitive world of business and the professions. Michael Scriven and Richard Paul for the National Council for Excellence in Critical Thinking Instruction argued that the effective critical thinker: raises vital questions and problems, formulating them clearly and precisely; gathers and assesses relevant information, using abstract ideas to interpret it effectively; comes to well-reasoned conclusions and solutions, testing them against relevant criteria and standards; thinks open-mindedly within alternative systems of thought, recognizing, and assessing, as need be, their assumptions, implications, and practical con­sequences; and communicates effectively with others in figuring our solutions to complex problems. They also observed that critical thinking entails effective communication and problem solving abilities and a commitment to overcome our native egocentrism and sociocentrism,"1 Debate as a classroom exercise and as a mode of thinking and behaving uniquely promotes development of each of these skill sets. Since classical times, debate has been one of the best methods of learning and applying the principles of critical thinking. Contemporary research confirms the value of debate. One study concluded: The impact of public communication training on the critical thinking ability of the participants is demonstrably positive. This summary of existing research reaffirms what many ex-debaters and others in forensics, public speaking, mock trial, or argumentation would support: participation improves die thinking of those involved,2 In particular, debate education improves the ability to think critically. In a com­prehensive review of the relevant research, Kent Colbert concluded, "'The debate-critical thinking literature provides presumptive proof ■favoring a positive debate-critical thinking relationship.11'1 Much of the most significant communication of our lives is conducted in the form of debates, formal or informal, These take place in intrapersonal commu­nications, with which we weigh the pros and cons of an important decision in our own minds, and in interpersonal communications, in which we listen to argu­ments intended to influence our decision or participate in exchanges to influence the decisions of others. Our success or failure in life is largely determined by our ability to make wise decisions for ourselves and to influence the decisions of’ others in ways that are beneficial to us. Much of our significant, purposeful activity is concerned with making decisions. Whether to join a campus organization, go to graduate school, accept a job offer, buy a car or house, move to another city, invest in a certain stock, or vote for Garcia—these are just a few Of the thousands of deci­sions we may have to make. Often, intelligent self-interest or a sense of respon­sibility will require us to win the support of others. We may want a scholarship or a particular job for ourselves, a customer for our product, or a vote for our favored political candidate. Some people make decision by flipping a coin. Others act on a whim or respond unconsciously to “hidden persuaders.” If the problem is trivial—such as whether to go to a concert or a film—the particular method used is unimportant. For more crucial matters, however, mature adults require a reasoned methods of decision making. Decisions should be justified by good reasons based on accurate evidence and valid reasoning.

Linking the ballot to a *should* question in combination with USFG simulation teaches the skills to organize pragmatic consequences *and* philosophical values into a course of action

Hanghoj 8

http://static.sdu.dk/mediafiles/Files/Information\_til/Studerende\_ved\_SDU/Din\_uddannelse/phd\_hum/afhandlinger/2009/ThorkilHanghoej.pdf

 Thorkild Hanghøj, Copenhagen, 2008

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professor.

 Joas’ re-interpretation of Dewey’s pragmatism as a “theory of situated creativity” raises a critique of humans as purely rational agents that navigate instrumentally through meansends- schemes (Joas, 1996: 133f). This critique is particularly important when trying to understand how games are enacted and validated within the realm of educational institutions that by definition are inscribed in the great modernistic narrative of “progress” where nation states, teachers and parents expect students to acquire specific skills and competencies (Popkewitz, 1998; cf. chapter 3). However, as Dewey argues, the actual doings of educational gaming cannot be reduced to rational means-ends schemes. Instead, the situated interaction between teachers, students, and learning resources are played out as contingent re-distributions of means, ends and ends in view, which often make classroom contexts seem “messy” from an outsider’s perspective (Barab & Squire, 2004). 4.2.3. Dramatic rehearsal The two preceding sections discussed how Dewey views play as an imaginative activity of educational value, and how his assumptions on creativity and playful actions represent a critique of rational means-end schemes. For now, I will turn to Dewey’s concept of dramatic rehearsal, which assumes that social actors deliberate by projecting and choosing between various scenarios for future action. Dewey uses the concept dramatic rehearsal several times in his work but presents the most extensive elaboration in Human Nature and Conduct: Deliberation is a dramatic rehearsal (in imagination) of various competing possible lines of action… [It] is an experiment in finding out what the various lines of possible action are really like (...) Thought runs ahead and foresees outcomes, and thereby avoids having to await the instruction of actual failure and disaster. An act overtly tried out is irrevocable, its consequences cannot be blotted out. An act tried out in imagination is not final or fatal. It is retrievable (Dewey, 1922: 132-3). This excerpt illustrates how Dewey views the process of decision making (deliberation) through the lens of an imaginative drama metaphor. Thus, decisions are made through the imaginative projection of outcomes, where the “possible competing lines of action” are resolved through a thought experiment. Moreover, Dewey’s compelling use of the drama metaphor also implies that decisions cannot be reduced to utilitarian, rational or mechanical exercises, but that they have emotional, creative and personal qualities as well. Interestingly, there are relatively few discussions within the vast research literature on Dewey of his concept of dramatic rehearsal. A notable exception is the phenomenologist Alfred Schütz, who praises Dewey’s concept as a “fortunate image” for understanding everyday rationality (Schütz, 1943: 140). Other attempts are primarily related to overall discussions on moral or ethical deliberation (Caspary, 1991, 2000, 2006; Fesmire, 1995, 2003; Rönssön, 2003; McVea, 2006). As Fesmire points out, dramatic rehearsal is intended to describe an important phase of deliberation that does not characterise the whole process of making moral decisions, which includes “duties and contractual obligations, short and long-term consequences, traits of character to be affected, and rights” (Fesmire, 2003: 70). Instead, dramatic rehearsal should be seen as the process of “crystallizing possibilities and transforming them into directive hypotheses” (Fesmire, 2003: 70). Thus, deliberation can in no way guarantee that the response of a “thought experiment” will be successful. But what it can do is make the process of choosing more intelligent than would be the case with “blind” trial-and-error (Biesta, 2006: 8). The notion of dramatic rehearsal provides a valuable perspective for understanding educational gaming as a simultaneously real and imagined inquiry into domain-specific scenarios. Dewey defines dramatic rehearsal as the capacity to stage and evaluate “acts”, which implies an “irrevocable” difference between acts that are “tried out in imagination” and acts that are “overtly tried out” with real-life consequences (Dewey, 1922: 132-3). This description shares obvious similarities with games as they require participants to inquire into and resolve scenario-specific problems (cf. chapter 2). On the other hand, there is also a striking difference between moral deliberation and educational game activities in terms of the actual consequences that follow particular actions. Thus, when it comes to educational games, acts are both imagined and tried out, but without all the real-life consequences of the practices, knowledge forms and outcomes that are being simulated in the game world. Simply put, there is a difference in realism between the dramatic rehearsals of everyday life and in games, which only “play at” or simulate the stakes and risks that characterise the “serious” nature of moral deliberation, i.e. a real-life politician trying to win a parliamentary election experiences more personal and emotional risk than students trying to win the election scenario of The Power Game. At the same time, the lack of real-life consequences in educational games makes it possible to design a relatively safe learning environment, where teachers can stage particular game scenarios to be enacted and validated for educational purposes. In this sense, educational games are able to provide a safe but meaningful way of letting teachers and students make mistakes (e.g. by giving a poor political presentation) and dramatically rehearse particular “competing possible lines of action” that are relevant to particular educational goals (Dewey, 1922: 132). Seen from this pragmatist perspective, the educational value of games is not so much a question of learning facts or giving the “right” answers, but more a question of exploring the contingent outcomes and domain-specific processes of problem-based scenarios.

Other sources of decision-making don’t solve

Boyne ‘12

Shawn, Associate Professor of Law, Dean’s Fellow, Grimes Fellow, Indiana University Robert H. McKinney School of Law—Indianapolis. “Crisis in the Classroom: Using Simulations to Enhance Decision-Making Skills,” <http://www.swlaw.edu/pdfs/jle/jle622boyne.pdf>

Conclusion The Counter-Terrorism Simulation we conducted at Indiana University Law School-Indianapolis in October 2009 introduced students to the decisionmaking challenges that leaders face in times of crisis. By adapting a model used extensively in the military and public safety environments to achieve pedagogical goals aligned with the law school curriculum, the simulation project tested students’ ability to apply the law in a unique professional setting. By using a **team centered decision-making model**, the simulation encouraged students to share information, discuss possible courses of actions, and to reflect on the short-term outcomes of their decisions. By targeting students’ abilities to solve problems, communicate effectively, and work in a multidisciplinary team, the project targeted key skills critical to the successful practice of law. The ability to demonstrate leadership in a time of crisis is one of the key skills missing in the management of public sector organizations today. In the field of public sector management, many governments have turned to simulation exercises to improve leaders’ ability to respond to a crisis.25 During the past fifteen years, natural and man-made crises have posed unprecedented challenges to political leaders and public servants. Facilitated by globalized social, economic, and technological progress, new threats such as the rise of terrorism, pose increasingly complex challenges to political leaders and front line decision-makers. The impact of challenging crises such as epidemics, terrorist attacks, natural disasters, and civil unrest are often **not constrained by national boundaries.** As Charles Perrow forecast in 1999, local disruptions now trigger regional and international crises.26 Yet, as the bungled response to Hurricane Katrina demonstrated, **many public leaders and front line responders are often unprepared to handle the communication and decisionmaking challenges posed by a crisis**. For these reasons, educational institutions that hope to prepare their students to assume positions of leadership, cannot afford to ignore the fact that the complexity of the modern decision-making environment requires the use of new pedagogies to prepare students. Our proposed counter-terrorism simulation will help to fill that need. Whether we examine the nation’s early response to the war on terror, the inaction of multiple layers of government to Hurricane Katrina, or the lack of public confidence in a municipal police department, **the individuals in key management positions lack a decision-making road map**. Absent such a road map, individuals may take steps that cross legal and ethical boundaries, undermine organizational confidence, and at worst **fail to protect the public.** Given that lawyers occupy pivotal positions in government, it behooves us to educate law students and public policy students who are prepared to assume leadership positions.

Means the USFG should take action

Steinberg and Freeley ‘8

David Director of Debate at U Miami, Former President of CEDA, officer, American Forensic Association and National Communication Association. Lecturer in Communication studies and rhetoric. Advisor to Miami Urban Debate League, Masters in Communication, and Austin, JD, Suffolk University, attorney who focuses on criminal, personal injury and civil rights law, Argumentation and Debate Critical Thinking for Reasoned Decision Making, TWELFTH EDITION

Most propositions on matters of policy contain the word should (or ought)—for example, “Resolved: That such-and-such should be done.” In a debate on a policy proposition, should means that intelligent self-interest, social welfare, or the national interest prompts this action **and that it is both desirable and workable. When the affirmative claims a policy “should” be adopted, it must show that the policy is practical—but it is under no obligation to show that it would be adopted**. The affirmative must give enough detail to show that if implemented, it would work. It may be impossible, within the time limitations of the debate, for the affirmative to give all the details, but it must at least show the outline of its policy and indicate how the details could be worked out. For example, in a debate on federal funding for education, the affirmative could not reasonably be expected to indicate how much money each state would receive under its plan, but it would be obliged to indicate the method by which the amount of the grants would be determined. It would be pointless for the negative to seek to show that the affirmative’s plan could not be adopted by demonstrating that public opinion is against it or that the supporters of the plan lack sufficient voting strength in Congress.

Topical version of the aff solves

Orly Lobel, University of San Diego Assistant Professor of Law, 2007, The Paradox of Extralegal Activism: Critical Legal Consciousness and Transformative Politics,” 120 HARV. L. REV. 937, http://www.harvardlawreview.org/media/pdf/lobel.pdf

V. RESTORING CRITICAL OPTIMISM IN THE LEGAL FIELD

“La critique est aisée; l’art difficile.”

A critique of cooptation often takes an uneasy path. Critique has always been and remains not simply an intellectual exercise but a political and moral act. The question we must constantly pose is how critical accounts of social reform models contribute to our ability to produce scholarship and action that will be constructive. To critique the ability of law to produce social change is inevitably to raise the question of alternatives. In and of itself, the exploration of the limits of law and the search for new possibilities is an insightful field of inquiry. However, the contemporary message that emerges from critical legal consciousness analysis has often resulted in the distortion of the critical arguments themselves. This distortion denies the potential of legal change in order to illuminate what has yet to be achieved or even imagined. Most importantly, cooptation analysis is not unique to legal reform but can be extended to any process of social action and engagement. When claims of legal cooptation are compared to possible alternative forms of activism, the false necessity embedded in the contemporary story emerges — a story that privileges informal extralegal forms as transformative while assuming that a conservative tilt exists in formal legal paths. In the triangular conundrum of “law and social change,” law is regularly the first to be questioned, deconstructed, and then critically dismissed. The other two components of the equation — social and change — are often presumed to be immutable and unambiguous. Understanding the limits of legal change reveals the dangers of absolute reliance on one system and the need, in any effort for social reform, to contextualize the discourse, to avoid evasive, open-ended slogans, and to develop greater sensitivity to indirect effects and multiple courses of action. **Despite its weaknesses, however, law is an optimistic discipline**. It operates both in the present and in the future. **Order without law is often the privilege of the strong**. Marginalized groups have used legal reform precisely because they lacked power. Despite limitations, these groups have often successfully secured their interests through legislative and judicial victories. **Rather than experiencing a** disabling disenchantment **with the legal system, we can learn from both the successes and failures of past models, with the aim of** constantly redefining the boundaries of legal reform **and making visible law’s broad reach**.

## rest of the 1nc

The AFF collapses presidential war powers

Heder ’10

(Adam, J.D., magna cum laude , J. Reuben Clark Law School, Brigham Young University, “THE POWER TO END WAR: THE EXTENT AND LIMITS OF CONGRESSIONAL POWER,” St. Mary’s Law Journal Vol. 41 No. 3, <http://www.stmaryslawjournal.org/pdfs/Hederreadytogo.pdf>)

This constitutional silence invokes Justice Rehnquist’s oftquoted language from the landmark “political question” case, Goldwater v. Carter . 121 In Goldwater , a group of senators challenged President Carter’s termination, without Senate approval, of the United States ’ Mutual Defense Treaty with Taiwan. 122 A plurality of the Court held, 123 in an opinion authored by Justice Rehnquist, that this was a nonjusticiable political question. 124 He wrote: “In light of the absence of any constitutional provision governing the termination of a treaty, . . . the instant case in my view also ‘must surely be controlled by political standards.’” 125 Notably, Justice Rehnquist relied on the fact that there was no constitutional provision on point. Likewise, there is **no constitutional provision** on whether Congress has the legislative power to **limit, end, or otherwise redefine the scope of a war**. Though Justice Powell argues in Goldwater that the Treaty Clause and Article VI of the Constitution “add support to the view that the text of the Constitution does not unquestionably commit the power to terminate treaties to the President alone,” 126 **the same cannot be said about Congress’s legislative authority** to terminate or limit a war in a way that goes beyond its explicitly enumerated powers. There are no such similar provisions that would suggest Congress may decline to exercise its appropriation power but nonetheless legally order the President to cease all military operations. Thus, the case for deference to the political branches on this issue is even greater than it was in the Goldwater context. Finally, the Constitution does not imply any additional powers for Congress to end, limit, or redefine a war. The textual and historical evidence suggests the Framers purposefully **declined to grant Congress such powers**. And as this Article argues, granting Congress this power would be **inconsistent with the general war powers structure of the Constitution.** Such a reading of the Constitution would **unnecessarily empower Congress** and **tilt the scales heavily in its favor**. More over, it would strip the President of his Commander in Chief authority to direct the movement of troops at a time **when the Executive’s expertise is needed.** 127 And fears that the President will grow too powerful are unfounded, given the reasons noted above. 128 In short, the Constitution does not impliedly afford Congress any authority to prematurely terminate a war above what it explicitly grants. 129 Declaring these issues nonjusticiable political questions would be the most practical means of balancing the textual and historical demands, the structural demands, and the practical demands that complex modern warfare brings . Adjudicating these matters would only lead the courts to engage in impermissible line drawing — lines that would both confus e the issue and add layers to the text of the Constitution in an area where the Framers themselves declined to give such guidance.

That causes conflict

Li ‘9

Zheyao, J.D. candidate, Georgetown University Law Center, 2009; B.A., political science and history, Yale University, 2006. This paper is the culmination of work begun in the "Constitutional Interpretation in the Legislative and Executive Branches" seminar, led by Judge Brett Kavanaugh, “War Powers for the Fourth Generation: Constitutional Interpretation in the Age of Asymmetric Warfare,” 7 Geo. J.L. & Pub. Pol'y 373 2009 WAR POWERS IN THE FOURTH GENERATION OF WARFARE

A. The Emergence of Non-State Actors

Even as the quantity of nation-states in the world has increased dramatically since the end of World War II, the institution of the nation-state has been in decline over the past few decades. Much of this decline is the direct result of the waning of major interstate war, which primarily resulted from the introduction of nuclear weapons.122 The proliferation of nuclear weapons, and their immense capacity for absolute destruction, has ensured that conventional wars remain limited in scope and duration. Hence, "both the size of the armed forces and the quantity of weapons at their disposal has declined quite sharply" since 1945.123 At the same time, concurrent with the decline of the nation-state in the second half of the twentieth century, non-state actors have increasingly been willing and able to use force to advance their causes. In contrast to nation-states, who adhere to the Clausewitzian distinction between the ends of policy and the means of war to achieve those ends, non-state actors do not necessarily fight as a mere means of advancing any coherent policy. Rather, they see their fight as a life-and-death struggle, wherein the ordinary terminology of war as an instrument of policy breaks down because of this blending of means and ends.124 It is the existential nature of this struggle and the disappearance of the Clausewitzian distinction between war and policy that has given rise to a new generation of warfare. The concept of fourth-generational warfare was first articulated in an influential article in the Marine Corps Gazette in 1989, which has proven highly prescient. In describing what they saw as the modem trend toward a new phase of warfighting, the authors argued that: In broad terms, fourth generation warfare seems likely to be widely dispersed and largely undefined; the distinction between war and peace will be blurred to the vanishing point. It will be nonlinear, possibly to the point of having no definable battlefields or fronts. The distinction between "civilian" and "military" may disappear. Actions will occur concurrently throughout all participants' depth, including their society as a cultural, not just a physical, entity. Major military facilities, such as airfields, fixed communications sites, and large headquarters will become rarities because of their vulnerability; the same may be true of civilian equivalents, such as seats of government, power plants, and industrial sites (including knowledge as well as manufacturing industries). 125 It is precisely this blurring of peace and war and the demise of traditionally definable battlefields that provides the impetus for the formulation of a new. theory of war powers. As evidenced by Part M, supra, the constitutional allocation of war powers, and the Framers' commitment of the war power to two co-equal branches, was not designed to cope with the current international system, one that is characterized by the persistent machinations of international terrorist organizations, the rise of multilateral alliances, the emergence of rogue states, and the potentially wide proliferation of easily deployable weapons of mass destruction, nuclear and otherwise. B. The Framers' World vs. Today's World The Framers crafted the Constitution, and the people ratified it, in a time when everyone understood that the state controlled both the raising of armies and their use. Today, however, the threat of terrorism is bringing an end to the era of the nation-state's legal monopoly on violence, and the kind of war that existed before-based on a clear division between government, armed forces, and the people-is on the decline. 126 As states are caught between their decreasing ability to fight each other due to the existence of nuclear weapons and the increasing threat from non-state actors, it is clear that the Westphalian system of nation-states that informed the Framers' allocation of war powers is no longer the order of the day. 127 As seen in Part III, supra, the rise of the modem nation-state occurred as a result of its military effectiveness and ability to defend its citizens. If nation-states such as the United States are unable to adapt to the changing circumstances of fourth-generational warfare-that is, if they are unable to adequately defend against low-intensity conflict conducted by non-state actors-"then clearly [the modem state] does not have a future in front of it.' 128 The challenge in formulating a new theory of war powers for fourthgenerational warfare that remains legally justifiable lies in the difficulty of adapting to changed circumstances while remaining faithful to the constitutional text and the original meaning. 29 To that end, it is crucial to remember that the Framers crafted the Constitution in the context of the Westphalian system of nation-states. The three centuries following the Peace of Westphalia of 1648 witnessed an international system characterized by wars, which, "through the efforts of governments, assumed a more regular, interconnected character."' 130 That period saw the rise of an independent military class and the stabilization of military institutions. Consequently, "warfare became more regular, better organized, and more attuned to the purpose of war-that is, to its political objective."' 1 3' That era is now over. Today, the stability of the long-existing Westphalian international order has been greatly eroded in recent years with the advent of international terrorist organizations, which care nothing for the traditional norms of the laws of war. This new global environment exposes the limitations inherent in the interpretational methods of originalism and textualism and necessitates the adoption of a new method of constitutional interpretation. While one must always be aware of the text of the Constitution and the original understanding of that text, that very awareness identifies the extent to which fourth-generational warfare epitomizes a phenomenon unforeseen by the Framers, a problem the constitutional resolution of which must rely on the good judgment of the present generation. 13 Now, to adapt the constitutional warmarking scheme to the new international order characterized by fourth-generational warfare, one must understand the threat it is being adapted to confront. C. The Jihadist Threat The erosion of the Westphalian and Clausewitzian model of warfare and the blurring of the distinction between the means of warfare and the ends of policy, which is one characteristic of fourth-generational warfare, apply to al-Qaeda and other adherents of jihadist ideology who view the United States as an enemy. An excellent analysis of jihadist ideology and its implications for the rest of the world are presented by Professor Mary Habeck. 133 Professor Habeck identifies the centrality of the Qur'an, specifically a particular reading of the Qur'an and hadith (traditions about the life of Muhammad), to the jihadist terrorists. 134 The jihadis believe that the scope of the Qur'an is universal, and "that their interpretation of Islam is also intended for the entire world, which must be brought to recognize this fact peacefully if possible and through violence if not."' 135 Along these lines, the jihadis view the United States and her allies as among the greatest enemies of Islam: they believe "that every element of modern Western liberalism is flawed, wrong, and evil" because the basis of liberalism is secularism. 136 The jihadis emphasize the superiority of Islam to all other religions, and they believe that "God does not want differing belief systems to coexist."' 37 For this reason, jihadist groups such as al-Qaeda "recognize that the West will not submit without a fight and believe in fact that the Christians, Jews, and liberals have united against Islam in a war that will end in the complete destruction of the unbelievers.' 138 Thus, the adherents of this jihadist ideology, be it al-Qaeda or other groups, will continue to target the United States until she is destroyed. Their ideology demands it. 139 To effectively combat terrorist groups such as al-Qaeda, it is necessary to understand not only how they think, but also how they operate. Al-Qaeda is a transnational organization capable of simultaneously managing multiple operations all over the world."14 It is both centralized and decentralized: al-Qaeda is centralized in the sense that Osama bin Laden is the unquestioned leader, but it is decentralized in that its operations are carried out locally, by distinct cells."4 AI-Qaeda benefits immensely from this arrangement because it can exercise direct control over high-probability operations, while maintaining a distance from low-probability attacks, only taking the credit for those that succeed. The local terrorist cells benefit by gaining access to al-Qaeda's "worldwide network of assets, people, and expertise."' 42 Post-September 11 events have highlighted al-Qaeda's resilience. Even as the United States and her allies fought back, inflicting heavy casualties on al-Qaeda in Afghanistan and destroying dozens of cells worldwide, "al-Qaeda's networked nature allowed it to absorb the damage and remain a threat." 14 3 This is a far cry from earlier generations of warfare, where the decimation of the enemy's military forces would generally bring an end to the conflict. D. The Need for Rapid Reaction and Expanded Presidential War Power By now it should be clear just how different this conflict against the extremist terrorists is from the type of warfare that occupied the minds of the Framers at the time of the Founding. Rather than maintaining the geographical and political isolation desired by the Framers for the new country, today's United States is an international power targeted by individuals and groups that will not rest until seeing her demise. The Global War on Terrorism is not truly a war within the Framers' eighteenth-century conception of the term, and the normal constitutional provisions regulating the division of war powers between Congress and the President do not apply. Instead, this "war" is a struggle for survival and dominance against forces that threaten to destroy the United States and her allies, and the fourth-generational nature of the conflict, highlighted by an indiscernible distinction between wartime and peacetime, necessitates an evolution of America's traditional constitutional warmaking scheme. As first illustrated by the military strategist Colonel John Boyd, constitutional decision-making in the realm of war powers in the fourth generation should consider the implications of the OODA Loop: Observe, Orient, Decide, and Act. 44 In the era of fourth-generational warfare, quick reactions, proceeding through the OODA Loop rapidly, and disrupting the enemy's OODA loop are the keys to victory. "In order to win," Colonel Boyd suggested, "we should operate at a faster tempo or rhythm than our adversaries." 145 In the words of Professor Creveld, "[b]oth organizationally and in terms of the equipment at their disposal, the armed forces of the world will have to adjust themselves to this situation by changing their doctrine, doing away with much of their heavy equipment and becoming more like police."1 46 Unfortunately, the existing constitutional understanding, which diffuses war power between two branches of government, necessarily (by the Framers' design) slows down decision- making. In circumstances where war is undesirable (which is, admittedly, most of the time, especially against other nation-states), the deliberativeness of the existing decision-making process is a positive attribute. In America's current situation, however, in the midst of the conflict with al-Qaeda and other international terrorist organizations, the existing process of constitutional decision-making in warfare may prove a fatal hindrance to achieving the initiative necessary for victory. As a slow-acting, deliberative body, Congress does not have the ability to adequately deal with fast-emerging situations in fourth-generational warfare. Thus, in order to combat transnational threats such as al-Qaeda, the executive branch must have the ability to operate by taking offensive military action even without congressional authorization, because only the executive branch is capable of the swift decision-making and action necessary to prevail in fourth-generational conflicts against fourthgenerational opponents.

Turns their impact

Bulloch 8

Millennium - Journal of International Studies *May 2008 vol. 36 no. 3 575-595*

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 But the idea that poverty and peace are directly related presupposes that wealth inequalities are – in and of themselves – unjust, and that the solution to the problem of war is to alleviate the injustice that inspires conflict, namely poverty. However, it also suggests that poverty is a legitimate inspiration for violence, otherwise there would be no reason to alleviate it in the interests of peace. It has become such a commonplace to suggest that poverty and conflict are linked that it rarely suffers any examination. To suggest that war causes poverty is to utter an obvious truth, but to suggest the opposite is – on reflection – quite hard to believe. War is an expensive business in the twenty-first century, even asymmetrically. And just to examine Bangladesh for a moment is enough at least to raise the question concerning the actual connection between peace and poverty. The government of Bangladesh is a threat only to itself, and despite 30 years of the Grameen Bank, Bangladesh remains in a state of incipient civil strife. So although Muhammad Yunus should be applauded for his work in demonstrating the efficacy of micro-credit strategies in a context of development, it is not at all clear that this has anything to do with resolving the social and political crisis in Bangladesh, nor is it clear that this has anything to do with resolving the problem of peace and war in our times. It does speak to the Western liberal mindset – as Geir Lundestad acknowledges – but then perhaps this exposes the extent to which the Peace Prize itself has simply become an award that reflects a degree of Western liberal wish-fulfilment. It is perhaps comforting to believe that poverty causes violence, as it serves to endorse a particular kind of concern for the developing world that in turn regards all problems as fundamentally economic rather than deeply – and potentially radically – political.

We affirm the topic through epistemic disobedience.

The authority to indefinitely imprison indigenous persons found in the National Defense Authorization Act should not exist.

**The use of the term ‘detain’ to describe imprisonment sanitizes the process and smoothly transforms a system of abuse and degradation into a clean administrative procedure---this linguistic move actively legitimizes the worst excesses of the war on terror**

National Forum, 6/28/05 (http://72.14.203.104/search?q=cache:3qt2cbGSm7UJ:forum.onlineopinion.com.au/thread.asp%3Farticle%3D3592+%22detention+is%22+euphemism&hl=en&gl=us&ct=clnk&cd=267)

So it is Liberal policy to lock up children who have come to this country to seek refuge and discard those with a conscience. What is their crime? Wrong place wrong time?
How do the Liberals and their supporters justify this cruelty to children? Orwell said " In our time, Political speech and writing are largely the defence of the indefensible." **Today the Liberals dole out the euphemisms and PR to defend the indefensible**. For instance: "mandatory **detention" is really imprisonment without trial;** an "illegal" is a mother, a child, a person - flesh and blood with feelings. The main argument that we get to counter refugees and others who protest against this cruelty in Australia is the "question-begging", the "what if" nonsense comparing the treatment that they would get at the hands of dictators without conscience (that most refugees are escaping from). These mothers, fathers, sons and daughters are denied our help because the humanitarian conscience that they are appealing to no longer recognises their humanity - the "**sheer cloudy vagueness" has swallowed up their humanity. Vague, desperate, fleeting images in the distance behind bars**. According to KD, the Liberals have "legitimised" gaoling children and their parents in prisons to discourage other refugees from entering our shores. A terrorist is a person who uses extreme fear to govern or coerce government or community. So, I think, those condoning this method of coercion, that is, locking up refugees to coerce boat people into staying away is based on the similar thinking as a terrorist uses - it is wrong. Moreover, political conformity of the kind KD encourages, engenders the **machine-like responses** Orwell talks of in his essays. Those in favour of gaoling the mums and dads from afar who seek our help to scare others have no conscience, or more precisely , a sense of justice. Conscience reminds us of our humanity - without it **you are just cogs in a machine**.

**Detain is a euphemism---it functions to legitimizes government authority---undercuts public capacity to hold the Executive accountable for illegitimate arrests**

Shirazi 6

Said Shirazi, Princeton-based analyst for Dissident Voice, 3/9/06 (http://72.14.203.104/search?q=cache:gkwNaqfTznIJ:www.printculture.com/item-771.html+%22detention+is%22+euphemism&hl=en&gl=us&ct=clnk&cd=27)

By all means, if you suspect someone of terrorist activity arrest them, but charge them and let them work with counsel on defending themselves in case it turns out you’re wrong, as the U.S. was practically every time here. The benefit of the doubt must always be for the individual, not the peristaltic torpor of the bureaucratic Leviathan.The linguistic irony is that "**detained" is a less serious word than "arrested**", but to be detained amounts to being arrested and held indefinitely without charge, which is of course much worse. **Detention is a kind of limbo, and while technically accurate as a descriptive term**, functions today as a **euphemism for arrested without charge**, a phrase whose sense is more plain. So if you enjoy paradoxes, here’s a good one for you: the problem is not that people are being arrested, but rather that they are not being arrested.Special Registration, as the program was called, went into effect without proper public notice, only a posting in the Congressional Quarterly. It was already wrong from Day One, regardless of abuses that may have followed during incarceration, because it is based on racist assumptions, and because immigration laws were not intended to be used for an anti-terrorism dragnet. Applying immigration laws selectively to detain one group rather than another is discriminatory and illegal. Adding more groups to try to make it look less racist only makes it worse.The public tends to assume that if the government does something, it must be okay, since the government is who says what's okay and what isn't. This is a dangerous oversimplification that blurs the crucial distinction between the legislative and the executive branch, and that overlooks the reality that agencies can and do **overstep their authority**.

**This regime of sanitized language actively conceals the horror of totalitarianism---the language of euphemism clinically detaches people from any sense of ethical responsibility**

Davidson 03

Elias Davidsson, Centre for Research on Globalization, 2003 (<http://www.aldeilis.net/jus/econsanc/debate.pdf>)

In order to effectively describe a complex and highly politicized phenomenon, such as economic sanctions, the **utmost care in the choice of terminology is necessary**. Among the tools of politicians figure their creative use of language, including the invention of euphemisms and obfuscatory expressions. Discussing the role of euphemisms in political discourse, Stanley Cohen writes: The most familiar form of reinterpretation is the use of euphemistic labels and jargon. These are everyday devices for **masking, sanitising, and conferring respectability** by using **palliative terms** that **deny or misrepresent cruelty or harm**, giving them **neutral or respectable status**. Orwell's original account of the anaesthetic function of political language - how words **insulate their users and listeners** from **experiencing fully the meaning** of what they are doing - remains the classic source on the subject [28]. Judge Weeramantry, in his Separate Dissenting Opinion on The legality of nuclear weapons (International Court of Justice (Advisory Opinion) (1996)), castigates [...] the use of euphemistic language - the **disembodied language** of military operations and the **polite language of diplomacy**. They conceal the horror of nuclear war, diverting attention to intellectual concepts such as self-defence, reprisals, and proportionate damage which can have little relevance to a situation of total destruction. Horrendous damage to civilians and neutrals is described as collateral damage, because it was not directly intended; incineration of cities becomes "considerable thermal damage". One speaks of "acceptable levels of casualties", even if megadeaths are involved. Maintaining the balance of terror is described as "nuclear preparedness"; assured destruction as "deterrence", total devastation of the environment as "environmental damage". **Clinically detached** from their human context, such expressions **bypass the world of human suffering**, out of which humanitarian law has sprung.

**Euphemisms are central to the administration’s capacity to wage an unregulated war on terror---the plan legitimizes the abuse of civil liberties and the mistreatment of prisoners**

Sullivan 05

Andrew Sullivan, political journalist for New York Times Magazine, 11/12/05 (http://www.andrewsullivan.com/index.php?dish\_inc=archives/2005\_11\_06\_dish\_archive.html)

EXEMPTING THE CIA: A former general counsel for the agency [argues](http://www.washingtonpost.com/wp-dyn/content/article/2005/11/08/AR2005110801108.html?nav=hcmodule) against Dick Cheney's case for legally codifying torture as a lawful activity for the CIA. Meanwhile, new evidence [emerges](http://www.nytimes.com/2005/11/09/politics/09detain.html) that individuals within the CIA have warned that illegality was occurring. Here's one question I hope the press asks the president some time soon: does he believe that "waterboarding" constitutes torture and has he ever authorized it himself? Since we know that the CIA has been granted permission to water-board detainees, this doesn't violate anything classified. And since no specific case is mentioned, it doesn't tell us anything but general policy. So why not ask the question? **An important element of this debate has been euphemism**. The terms "coercive interrogation" or "aggressive interrogation" or even "abuse" can obscure as much as they reveal. These techniques need to be described as Orwell would have demanded. What is actually done to another human being? Exactly? And who specifically authorized which techniques? **There's a reason that politicians use Orwellian formulations as Bush does and Clinton did: to obscure reality**. Except Clinton used them to cover up sexual embarrassment and perjury. Bush has used them to cover up rape, murder, near-drowning and **torture of defenseless detainees**.

Epistemic focus causes scholarly failure

**Jackson**, associate professor of IR – School of International Service @ American University, **‘11**

(Patrick Thadeus, The Conduct of Inquiry in International Relations, p. 57-59) **\*\* We don’t endorse ableist language in this evidence**

Perhaps the greatest irony of this instrumental, decontextualized importation of “falsification” and its critics into IR is the way that an entire line of thought that privileged disconfirmation and refutation—no matter how complicated that disconfirmation and refutation was in practice—has been transformed into a license to **worry endlessly about foundational assumptions.** At the very beginning of the effort to bring terms such as “paradigm” to bear on the study of politics, Albert O. **Hirschman** (1970b, 338) **noted this very danger**, suggesting that without “a little more ‘reverence for life’ and a little less straightjacketing of the future,” the **focus on** producing internally **consistent** packages of **assumptions instead of** actually examining **complex empirical situations would result in scholarly paralysis.** Here as elsewhere, Hirschman appears to have been quite prescient, inasmuch as the major effect of paradigm and research programme language in IR seems to have been a series of debates and discussions about whether the fundamentals of a given school of thought were sufficiently “scientific” in their construction. Thus **we have debates about how to evaluate scientific progress**, and attempts to propose one or another set of research design principles **as uniquely scientific**, and inventive, “reconstructions” of IR schools, such as Patrick James’ “elaborated structural realism,” supposedly for the purpose of placing them on a **firmer scientific footing** by making sure that they have all of the required elements of a basically Lakatosian19 model of science (James 2002, 67, 98–103).

The bet with all of this scholarly activity seems to be that if we can just get the fundamentals right, then scientific progress will inevitably ensue . . . even though this is the precise opposite of what Popper and Kuhn and Lakatos argued! In fact, all of this obsessive interest in foundations and starting-points is, in form if not in content, a lot closer to logical positivism than it is to the concerns of the falsificationist philosophers, despite the prominence of language about “hypothesis testing” and the concern to formulate testable hypotheses among IR scholars engaged in these endeavors. That, above all, is why I have labeled this methodology of scholarship neopositivist. While it takes much of its self justification as a science from criticisms of logical positivism, in overall sensibility it still operates in a visibly positivist way, attempting to construct knowledge from the ground up by getting its foundations in logical order before concentrating on how claims encounter the world in terms of their theoretical implications. This is by no means to say that neopositivism is not interested in hypothesis testing; on the contrary, neopositivists are extremely concerned with testing hypotheses, but **only after the fundamentals have been** soundly **established.** Certainty, not conjectural provisionality, seems to be the goal—a goal that, ironically, Popper and Kuhn and Lakatos would all reject.

Their conception of violence is reductive and can’t be solved

Boulding 77

 Twelve Friendly Quarrels with Johan Galtung

Author(s): Kenneth E. BouldingReviewed work(s):Source: Journal of Peace Research, Vol. 14, No. 1 (1977), pp. 75-86Published

 Kenneth Ewart Boulding (January 18, 1910 – March 18, 1993) was an economist, educator, peace activist, poet, religious mystic, devoted Quaker, systems scientist, and interdisciplinary philosopher.[1][2] He was cofounder of General Systems Theory and founder of numerous ongoing intellectual projects in economics and social science.

 He graduated from Oxford University, and was granted United States citizenship in 1948. During the years 1949 to 1967, he was a faculty member of the University of Michigan. In 1967, he joined the faculty of the University of Colorado at Boulder, where he remained until his retirement.

 Finally, we come to the great Galtung metaphors of 'structural violence' 'and 'positive peace'. They are metaphors rather than models, and for that very reason are suspect. Metaphors always imply models and metaphors have much more persuasive power than models do, for models tend to be the preserve of the specialist. But when a metaphor implies a bad model it can be very dangerous, for it is both persuasive and wrong. The metaphor of structural violence I would argue falls right into this category. The metaphor is that poverty, deprivation, ill health, low expectations of life, a condition in which more than half the human race lives, is 'like' a thug beating up the victim and 'taking his money away from him in the street, or it is 'like' a conqueror stealing the land of the people and reducing them to slavery. The implication is that poverty and its associated ills are the fault of the thug or the conqueror and the solution is to do away with thugs and conquerors. While there is some truth in the metaphor, in the modern world at least there is not very much. Violence, whether of the streets and the home, or of the guerilla, of the police, or of the armed forces, is a very different phenomenon from poverty. The processes which create and sustain poverty are not at all like the processes which create and sustain violence, although like everything else in 'the world, everything is somewhat related to everything else. There is a very real problem of the structures which lead to violence, but unfortunately Galitung's metaphor of structural violence as he has used it has diverted attention from this problem. Violence in the behavioral sense, that is, somebody actually doing damage to somebody else and trying to make them worse off, is a 'threshold' phenomenon, rather like the boiling over of a pot. The temperature under a pot can rise for a long time without its boiling over, but at some 'threshold boiling over will take place. The study of the structures which underlie violence are a very important and much neglected part of peace research and indeed of social science in general. Threshold phenomena like violence are difficult to study because they represent 'breaks' in the systenm rather than uniformities. Violence, whether between persons or organizations, occurs when the 'strain' on a system is too great for its 'strength'. The metaphor here is that violence is like what happens when we break a piece of chalk. Strength and strain, however, especially in social systems, are so interwoven historically that it is very difficult to separate them. The diminution of violence involves two possible strategies, or a mixture of the two; one is Ithe increase in the strength of the system, 'the other is the diminution of the strain. The strength of systems involves habit, culture, taboos, and sanctions, all these 'things which enable a system to stand lincreasing strain without breaking down into violence. The strains on the system 'are largely dynamic in character, such as arms races, mutually stimulated hostility, changes in relative economic position or political power, which are often hard to identify. Conflicts of interest 'are only part 'of the strain on a system, and not always the most important part. It is very hard for people ito know their interests, and misperceptions of 'interest take place mainly through the dynamic processes, not through the structural ones. It is only perceptions of interest which affect people's behavior, not the 'real' interests, whatever these may be, and the gap between percepti'on and reality can be very large and resistant to change. However, what Galitung calls structural violence (which has been defined 'by one unkind commenltator as anything that Galitung doesn't like) was originally defined as any unnecessarily low expectation of life, on that assumption that anybody who dies before the allotted span has been killed, however unintentionally and unknowingly, by somebody else. The concept has been expanded to include all 'the problems of poverty, destitution, deprivation, and misery. These are enormously real and are a very high priority for research and action, but they belong to systems which are only peripherally related to 'the structures whi'ch produce violence. This is not rto say that the cultures of violence and the cultures of poverty are not sometimes related, though not all poverty cultures are cultures of violence, and certainly not all cultures of violence are poverty cultures. But the dynamics lof poverty and the success or failure to rise out of it are of a complexity far beyond anything which the metaphor of structural violence can offer. While the metaphor of structural violence performed a service in calling attention to a problem, it may have d'one a disservice in preventing us from finding the answer.

rejecting neoliberalism as a monolithic entity keeps it in tact

Duffy and Moore 10

Article: Neoliberalizing nature? Elephants as imperfect commodities Author: Duffy, R Journal: Antipode ISSN: 0066-4812 Date: 2010 Volume: 42 Issue: 3 Page: 742

Note: from 1 September 2012 I take up the post of Professor of Conservation Politics at the Durrell Institute of Conservation Ecology (DICE) in the School of Anthropology and Conservation, University of Kent.

I am Professor of International Politics, and I held posts at Edinburgh University and Lancaster University before joining Manchester in 2005. I take a deliberately interdisciplinary approach to understanding conservation; my work is located at the intersection between international relations, geography and sociology. My work examines the debates on global environmental governance, especially the roles of international NGOs, international treaties, international financial institutions and epistemic communities. I am particularly interested in how global environmental management regimes play out on the ground, how they are contested, challenged and resisted by their encounter at the local level. I focus on wildlife conservation, tourism and illicit trading networks to understand the local level complexities of global environmental management. I have undertaken a number of ESRC funded research projects on Peace Parks, gemstone mining and national parks,and on ecotourism (more details are under 'research interests'. My most recent book, Nature Crime: How We're Getting Conservation Wrong (Yale University Press, 2010) examines how global dynamics of wealth and poverty shape conservation outcomes. More information is on my personal wesbite 'Conservation Politics' <http://conservationpolitics.wordpress.com/>

However, it is critically important not to reify neoliberalism and ascribe it a greater level of coherence and dominance than it really deserves (Bakker 2005; Castree 2008a; Brenner and Theodore 2002; Mansfield 2004; McCarthy and Prudham 2004). Instead it is important to interrogate how neoliberalism plays out “on the ground”, to probe its complexities, unevenness and messiness (see Peck and Tickell 2002). In this paper we concentrate on comparing the practices of neoliberalism in order to draw out these messy entanglements; this demonstrates how neoliberalism can be challenged, resisted and changed by its encounter with nature (Bakker 2009; Castree 2008b:161). Therefore, we do not rehearse the well worn debates on definitions of neoliberalism, but rather take up the challenge of comparative research on “actually existing neoliberalisms”, which involves engaging with contextual embeddedness in order to complicate neat theoretical debates. As Brenner and Theodore (2002:356–358) suggest, to understand actually existing neoliberalism we must explore the path-dependent, contextually specific interactions between inherited regulatory landscapes and emergent forms of neoliberalism. As such, the neat lines and models generated via theoretical debates can be traced, refined, critiqued and challenged through engagement with specific case studies (Bakker 2009; Castree 2008b).

Util’s the only moral framework

**Murray 97** (Alastair, Professor of Politics at U. Of Wales-Swansea, *Reconstructing Realism*, p. 110)

Weber emphasised that, while the 'absolute ethic of the gospel' must be taken seriously, it is inadequate to the tasks of evaluation presented by politics. Against this 'ethic of ultimate ends' — Gesinnung — he therefore proposed the 'ethic of responsibility' — Verantwortung. First, whilst the former dictates only the purity of intentions and pays no attention to consequences, the ethic of responsibility commands acknowledgement of the divergence between intention and result. Its adherent 'does not feel in a position to burden others with the results of his [OR HER] own actions so far as he was able to foresee them; he [OR SHE] will say: these results are ascribed to my action'. Second, the 'ethic of ultimate ends' is incapable of dealing adequately with the moral dilemma presented by the necessity of using evil means to achieve moral ends: Everything that is striven for through political action operating with violent means and following an ethic of responsibility endangers the 'salvation of the soul.' If, however, one chases after the ultimate good in a war of beliefs, following a pure ethic of absolute ends, then the goals may be changed and discredited for generations, because responsibility for consequences is lacking. The 'ethic of responsibility', on the other hand, can accommodate this paradox and limit the employment of such means, because it accepts responsibility for the consequences which they imply. Thus, Weber maintains that only the ethic of responsibility can cope with the 'inner tension' between the 'demon of politics' and 'the god of love'. 9 The realists followed this conception closely in their formulation of a political ethic.10 This influence is particularly clear in Morgenthau.11 In terms of the first element of this conception, the rejection of a purely deontological ethic, Morgenthau echoed Weber's formulation, arguing tha/t:the political actor has, beyond the general moral duties, a special moral responsibility to act wisely ... The individual, acting on his own behalf, may act unwisely without moral reproach as long as the consequences of his inexpedient action concern only [HER OR] himself. What is done in the political sphere by its very nature concerns others who must suffer from unwise action. What is here done with good intentions but unwisely and hence with disastrous results is morally defective; for it violates the ethics of responsibility to which all action affecting others, and hence political action par excellence, is subject.12 This led Morgenthau to argue, in terms of the concern to reject doctrines which advocate that the end justifies the means, that the impossibility of the logic underlying this doctrine 'leads to the negation of absolute ethical judgements altogether'.13

Their critique only highlights the need for legal reform, not abandonment of the entire enterprise

Orly Lobel, University of San Diego Assistant Professor of Law, 2007, The Paradox of Extralegal Activism: Critical Legal Consciousness and Transformative Politics,” 120 HARV. L. REV. 937, http://www.harvardlawreview.org/media/pdf/lobel.pdf

V. RESTORING CRITICAL OPTIMISM IN THE LEGAL FIELD

“La critique est aisée; l’art difficile.”

A critique of cooptation often takes an uneasy path. Critique has always been and remains not simply an intellectual exercise but a political and moral act. The question we must constantly pose is how critical accounts of social reform models contribute to our ability to produce scholarship and action that will be constructive. To critique the ability of law to produce social change is inevitably to raise the question of alternatives. In and of itself, the exploration of the limits of law and the search for new possibilities is an insightful field of inquiry. However, the contemporary message that emerges from critical legal consciousness analysis has often resulted in the distortion of the critical arguments themselves. This distortion denies the potential of legal change in order to illuminate what has yet to be achieved or even imagined. Most importantly, cooptation analysis is not unique to legal reform but can be extended to any process of social action and engagement. When claims of legal cooptation are compared to possible alternative forms of activism, the false necessity embedded in the contemporary story emerges — a story that privileges informal extralegal forms as transformative while assuming that a conservative tilt exists in formal legal paths.

In the triangular conundrum of “law and social change,” law is regularly the first to be questioned, deconstructed, and then critically dismissed. The other two components of the equation — social and change — are often presumed to be immutable and unambiguous. Understanding the limits of legal change reveals the dangers of absolute reliance on one system and the need, in any effort for social reform, to contextualize the discourse, to avoid evasive, open-ended slogans, and to develop greater sensitivity to indirect effects and multiple courses of action. **Despite its weaknesses, however, law is an optimistic discipline**. It operates both in the present and in the future. **Order without law is often the privilege of the strong**. Marginalized groups have used legal reform precisely because they lacked power. Despite limitations, these groups have often successfully secured their interests through legislative and judicial victories. **Rather than experiencing a disabling disenchantment with the legal system, we can learn from both the successes and failures of past models, with the aim of constantly redefining the boundaries of legal reform and making visible law’s broad reach**.

There’s no impact and their rejection of military action reinscribes imperial relations and guarantees global violence

Marko Attila Hoare, University of Cambridge History Research Fellow, Kingston University Senior Research Fellow, Summer 2006, Occidentalism: The West in the Eyes of its Enemies, http://bit.ly/11e8uXY

8) Anti-imperialism is based on a demonstrable falsehood - that Western military intervention always has negative results. Everyone knows that British and US military intervention liberated Western Europe from Nazism, and most anti-imperialists would concede that this was a good thing, but few are willing to acknowledge the implications of this for the anti-imperialist paradigm. External military intervention by Western 'imperial' powers helped to ensure the victory of the American Revolution; the liberation of Greece from the Ottoman Empire; the triumph of Italian unification; the liberation of Poland and Finland from Russia and the South Slavs from the Habsburg Empire. The anti-Nazi resistance movement in Yugoslavia during World War II received crucial military support from the Western Allies, including the bombing of enemy targets (and involving the killing of many civilians). Conversely, the failure of democratic states to intervene militarily led in the 1930s to the fascist victory in Spain, the Italian conquest of Abyssinia and the Nazi conquest of Czechoslovakia. The Western Allies could arguably have saved hundreds of thousands of Jewish and other lives by bombing the railway lines to Auschwitz, but chose not to; they nevertheless defeated Hitler, ended the Holocaust and saved hundreds of thousands more. Western military action could have halted the Rwandan genocide and prevented the Srebrenica massacre. Western military action did end Saddam's persecution of the Kuwaitis and Kurds, and Milosevic's persecution of the Kosovo Albanians. Yet the anti-imperialists persist with their myth that Western military intervention must necessarily bring totally negative results - not because it is true, but because their ideology depends upon it.

9) Anti-imperialism is anti-internationalist. By rejecting Western military intervention, the anti-imperialists reject the only means by which Western progressives can hope to halt genocide and fight oppression and tyranny abroad. The more honourable and decent anti-imperialists have been ready to express solidarity with the suffering people of Rwanda, Bosnia, Kosovo and Iraq. Yet such expressions of solidarity do nothing to halt genocide or persecution. By rejecting Western military intervention, the anti-imperialists confine themselves, at best, to being passive spectators in foreign conflicts. More usually, however, they are uninterested in such conflicts, unless and until the Western powers intervene in a more high-profile manner - in which case the anti-imperialists invariably mobilise to preserve the status quo and defend the fascists and persecutors from 'Western military intervention'.

10) Anti-imperialism is itself an expression of an imperialist mind-set. Anti-imperialists are fundamentally uninterested in the rights or wrongs of a conflict in a foreign country; their sole concern is their own geopolitical agenda. Thus, over Yugoslavia, they tended to support Milosevic's Serbia on an 'anti-imperialist' basis, sacrificing the rights of Milosevic's Croatian, Bosnian or Kosovar victims to the 'higher' anti-imperialist cause (in fact, the Western powers themselves aided and abetted Milosevic - but that's another story). Likewise, the anti-imperialists would be happy to consign Iraq to rule by Islamic fundamentalist mass-murderers - just so that the US can suffer a defeat. This is called subordinating the interests of non-Western peoples to Western political concerns, and is the direct counterpart of the readiness of Western Cold Warriors to support every brutal right-wing dictator - Somoza, Fahd, Marcos, Pinochet, Suharto - provided he was anti-Communist. For the Western imperialists of the left and of the right, non-Western countries are mere battlefields for the struggle against their own enemies - whether 'imperialist' or Communist. Anti-imperialists differ from right-wing imperialists in their choice of enemies, yet the two camps are mirror-images of each other, not opposites.

The impact is massive transition wars

Stephen Peter, Harvard National Security and Military Affairs Professor, Olin Institute for Strategic Studies Director, National Interest, 4/1/2003, An Empire, if you can keep it, http://www.allbusiness.com/government/3584055-1.html

Rather than wrestle with such difficult and unpleasant problems, the United States could give up the imperial mission, or pretensions to it, now. This would essentially mean the withdrawal of all U.S. forces from the Middle East, Europe and mainland Asia. It may be that all other peoples, without significant exception, will then turn to their own affairs and leave the United States alone. But those who are hostile to us might remain hostile, and be much less afraid of the United States after such a withdrawl. Current friends would feel less secure and, in **the most probable post-imperial world, would revert to the logic of selfhelp in which all states do what they must to protect themselves**. This would imply the relatively rapid acquisition of weapons of mass destruction by Japan, South Korea, Taiwan, Iran, Iraq and perhaps Algeria, Saudi Arabia, Malaysia, Indonesia and others. Constraints on the acquisition of biological weapons would be even weaker than they are today. Major regional arms races would also be very likely throughout Asia and the Middle East. This would not be a pleasant world for Americans, or anyone else. It is difficult to guess what the costs of such a world would be to the United States. They would probably not put the end of the United States in prospect, but they would not be small. If the logic of American empire is unappealing, it is not at all clear that the alternatives are that much more attractive.

**The academy isn’t wrong**

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The underlying notion of “the security bureaucracies . . . looking for new enemies” is a threadbare concept that has somehow taken hold across the political spectrum, from the radical left (viz. Michael Klare [1981], who refers to a “threat bank”), to the liberal center (viz. Robert H. Johnson [1997], who dismisses most alleged “threats” as “improbable dangers”), to libertarians (viz. Ted Galen Carpenter [1992], Vice President for Foreign and Defense Policy of the Cato Institute, who wrote a book entitled A Search for Enemies). What is missing from most analysts’ claims of “threat inflation,” however, is a convincing theory of why, say, the American government significantly(not merely in excusable rhetoric) might magnify and even invent threats (and, more seriously, act on such inflated threat estimates). In a few places, Eland (2004, 185) suggests that such behavior might stem from military or national security bureaucrats’ attempts to enhance their personal status and organizational budgets, or even from the influence and dominance of “the military-industrial complex”; viz.: “Maintaining the empire and retaliating for the blowback from that empire keeps what President Eisenhower called the military-industrial complex fat and happy.” Or, in the same section:¶ In the nation’s capital, vested interests, such as the law enforcement bureaucracies . . . routinely take advantage of “crises”to satisfy parochial desires. Similarly, many corporations use crises to get pet projects— a.k.a. pork—funded by the government. And national security crises, because of people’s fears, are especially ripe opportunities to grab largesse. (Ibid., 182)¶ Thus, “bureaucratic-politics” theory, which once made several reputa- tions (such as those of Richard Neustadt, Morton Halperin, and Graham Allison) in defense-intellectual circles, and spawned an entire sub-industry within the field of international relations,5 is put into the service of dismissing putative security threats as imaginary. So, too, can a surprisingly cognate theory, “public choice,”6 which can be considered the right-wing analog of the “bureaucratic-politics” model, and is a preferred interpretation of governmental decision- making among libertarian observers. As Eland (2004, 203) summarizes:¶ Public-choice theory argues [that] the government itself can develop sepa- rate interests from its citizens. The government reflects the interests of powerful pressure groups and the interests of the bureaucracies and the bureaucrats in them. Although this problem occurs in both foreign and domestic policy, it may be more severe in foreign policy because citizens pay less attention to policies that affect them less directly.¶ There is, in this statement of public-choice theory, a certain ambiguity, and a certain degree of contradiction: Bureaucrats are supposedly, at the same time, subservient to societal interest groups and autonomous from society in general.¶ This journal has pioneered the argument that state autonomy is a likely consequence of the public’s ignorance of most areas of state activity (e.g., Somin 1998; DeCanio 2000a, 2000b, 2006, 2007; Ravenal 2000a). But state autonomy does not necessarily mean that bureaucrats substitute their own interests for those of what could be called the “national society” that they ostensibly serve. I have argued (Ravenal 2000a) that, precisely because of the public-ignorance and elite-expertise factors, and especially because the opportunities—at least for bureaucrats (a few notable post-government lobbyist cases nonwithstanding)—for lucrative self-dealing are stringently fewer in the defense and diplomatic areas of government than they are in some of the contract-dispensing and more under-the-radar-screen agencies of government, the “public-choice” imputation of self-dealing, rather than working toward the national interest (which, however may not be synonymous with the interests, perceived or expressed, of citizens!) is less likely to hold. In short, state autonomy is likely to mean, in the derivation of foreign policy, that “state elites” are using rational judgment, in insulation from self-promoting interest groups—about what strategies, forces, and weapons are required for national defense.¶ Ironically, “public choice”—not even a species of economics, but rather a kind of political interpretation—is not even about “public” choice, since, like the bureaucratic-politics model, it repudiates the very notion that bureaucrats make truly “public” choices; rather, they are held, axiomatically, to exhibit “rent-seeking” behavior, wherein they abuse their public positions in order to amass private gains, or at least to build personal empires within their ostensibly official niches. Such sub- rational models actually explain very little of what they purport to observe. Of course, there is some truth in them, regarding the “behavior” of some people, at some times, in some circumstances, under some conditions of incentive and motivation. But the factors that they posit operate mostly as constraints on the otherwise rational optimization of objectives that, if for no other reason than the playing out of official roles, transcends merely personal or parochial imperatives.¶ My treatment of “role” differs from that of the bureaucratic-politics theorists, whose model of the derivation of foreign policy depends heavily, and acknowledgedly, on a narrow and specific identification of the role- playing of organizationally situated individuals in a partly conflictual “pulling and hauling” process that “results in” some policy outcome. Even here, bureaucratic-politics theorists Graham Allison and Philip Zelikow (1999, 311) allow that “some players are not able to articulate [sic] the governmental politics game because their conception of their job does not legitimate such activity.” This is a crucial admission, and one that points— empirically—to the need for a broader and generic treatment of role.¶ Roles (all theorists state) give rise to “expectations” of performance. My point is that virtually every governmental role, and especially national-security roles, and particularly the roles of the uniformed mili- tary, embody expectations of devotion to the “national interest”; rational- ity in the derivation of policy at every functional level; and objectivity in the treatment of parameters, especially external parameters such as “threats” and the power and capabilities of other nations.¶ Sub-rational models (such as “public choice”) fail to take into account even a partial dedication to the “national” interest (or even the possibility that the national interest may be honestly misconceived in more paro- chial terms). In contrast, an official’s role connects the individual to the (state-level) process, and moderates the (perhaps otherwise) self-seeking impulses of the individual. Role-derived behavior tends to be formalized and codified; relatively transparent and at least peer-reviewed, so as to be consistent with expectations; surviving the particular individual and trans- mitted to successors and ancillaries; measured against a standard and thus corrigible; defined in terms of the performed function and therefore derived from the state function; and uncorrrupt, because personal cheating and even egregious aggrandizement are conspicuously discouraged.¶ My own direct observation suggests that defense decision-makers attempt to “frame” the structure of the problems that they try to solve on the basis of the most accurate intelligence. They make it their business to know where the threats come from. Thus, threats are not “socially constructed” (even though, of course, some values are).¶ A major reason for the rationality, and the objectivity, of the process is that much security planning is done, not in vaguely undefined circum- stances that offer scope for idiosyncratic, subjective behavior, but rather in structured and reviewed organizational frameworks. Non-rationalities (which are bad for understanding and prediction) tend to get filtered out. People are fired for presenting skewed analysis and for making bad predictions. This is because something important is riding on the causal analysis and the contingent prediction. For these reasons, “public choice” does not have the “feel” of reality to many critics who have participated in the structure of defense decision-making. In that structure, obvious, and even not-so-obvious,“rent-seeking” would not only be shameful; it would present a severe risk of career termination. And, as mentioned, the defense bureaucracy is hardly a productive place for truly talented rent-seekers to operatecompared to opportunities for personal profit in the commercial world. A bureaucrat’s very self-placement in these reaches of government testi- fies either to a sincere commitment to the national interest or to a lack of sufficient imagination to exploit opportunities for personal profit.

No impact to threat con

Eric A. Posner and Adrian Vermeule 3, law profs at Chicago and Harvard, Accommodating Emergencies, September, <http://www.law.uchicago.edu/files/files/48.eap-av.emergency.pdf>

Against the view that panicked government officials overreact to an emergency, and unnecessarily curtail civil liberties, we suggest a more constructive theory of the role of fear. Before the emergency, government officials are complacent. They do not think clearly or vigorously about the potential threats faced by the nation. After the terrorist attack or military intervention, their complacency is replaced by fear. Fear stimulates them to action. Action may be based on good decisions or bad: fear might cause officials to exaggerate future threats, but it also might arouse them to threats that they would otherwise not perceive. It is impossible to say in the abstract whether decisions and actions provoked by fear are likely to be better than decisions and actions made in a state of calm. But our limited point is that there is no reason to think that the fear-inspired decisions are likely to be worse. For that reason, the existence of fear during emergencies does not support the antiaccommodation theory that the Constitution should be enforced as strictly during emergencies as during non-emergencies.

C. The Influence of Fear during Emergencies

Suppose now that the simple view of fear is correct, and that it is an unambiguously negative influence on government decisionmaking. Critics of accommodation argue that this negative influence of fear justifies skepticism about emergency policies and strict enforcement of the Constitution. However, this argument is implausible. It is doubtful that fear, so understood, has more influence on decisionmaking during emergencies than decisionmaking during non-emergencies.

The panic thesis, implicit in much scholarship though rarely discussed in detail, holds that citizens and officials respond to terrorism and war in the same way that an individual in the jungle responds to a tiger or snake. The national response to emergency, because it is a standard fear response, is characterized by the same circumvention of ordinary deliberative processes: thus, (i) the response is instinctive rather than reasoned, and thus subject to error; and (ii) the error will be biased in the direction of overreaction. While the flight reaction was a good evolutionary strategy on the savannah, in a complex modern society the flight response is not suitable and can only interfere with judgment. Its advantage—speed—has minimal value for social decisionmaking. No national emergency requires an immediate reaction—except by trained professionals who execute policies established earlier—but instead over days, months, or years people make complex judgments about the appropriate institutional response. And the asymmetrical nature of fear guarantees that people will, during a national emergency, overweight the threat and underweight other things that people value, such as civil liberties.

But if decisionmakers rarely act immediately, then the tiger story cannot bear the metaphoric weight that is placed on it. Indeed, the flight response has nothing to do with the political response to the bombing of Pearl Harbor or the attack on September 11. The people who were there—the citizens and soldiers beneath the bombs, the office workers in the World Trade Center—no doubt felt fear, and most of them probably responded in the classic way. They experienced the standard physiological effects, and (with the exception of trained soldiers and security officials) fled without stopping to think. It is also true that in the days and weeks after the attacks, many people felt fear, although not the sort that produces a irresistible urge to flee. But this kind of fear is not the kind in which cognition shuts down. (Some people did have more severe mental reactions and, for example, shut themselves in their houses, but these reactions were rare.) The fear is probably better described as a general anxiety or jumpiness, an anxiety that was probably shared by government officials as well as ordinary citizens.53

While, as we have noted, there is psychological research suggesting that normal cognition partly shuts down in response to an immediate threat, we are aware of no research suggesting that people who feel anxious about a non-immediate threat are incapable of thinking, or thinking properly, or systematically overweight the threat relative to other values. Indeed, it would be surprising to find research that clearly distinguished “anxious thinking” and “calm thinking,” given that anxiety is a pervasive aspect of life. People are anxious about their children; about their health; about their job prospects; about their vacation arrangements; about walking home at night. No one argues that people’s anxiety about their health causes them to take too many precautions—to get too much exercise, to diet too aggressively, to go to the doctor too frequently—and to undervalue other things like leisure. So it is hard to see why anxiety about more remote threats, from terrorists or unfriendly countries with nuclear weapons, should cause the public, or elected officials, to place more emphasis on security than is justified, and to sacrifice civil liberties.

Fear generated by immediate threats, then, causes instinctive responses that are not rational in the cognitive sense, not always desirable, and not a good basis for public policy, but it is not this kind of fear that leads to restrictions of civil liberties during wartime. The internment of Japanese Americans during World War II may have been due to racial animus, or to a mistaken assessment of the risks; it was not the direct result of panic; indeed there was a delay of weeks before the policy was seriously considered.54 Post-9/11 curtailments of civil liberties, aside from immediate detentions, came after a significant delay and much deliberation. The civil libertarians’ argument that fear produces bad policy trades on the ambiguity of the word “panic,” which refers both to real fear that undermines rationality, and to collectively harmful outcomes that are driven by rational decisions, such as a bank run, where it is rational for all depositors to withdraw funds if they believe that enough other depositors are withdrawing funds. Once we eliminate the false concern about fear, it becomes clear that the panic thesis is indistinguishable from the argument that during an emergency people are likely to make mistakes. But if the only concern is that during emergencies people make mistakes, there would be no reason for demanding that the constitution be enforced normally during emergencies. Political errors occur during emergencies and nonemergencies, but the stakes are higher during emergencies, and that is the conventional reason why constitutional constraints should be relaxed.

Even the small mechanism of the aff triggers the link

Pildes ‘3

Richard, An-Bryce Professor of Law, New York University School of Law, Conflicts Between American and European Views of Law: The Dark Side of Legalism, 44 Va. J. Int'l L. 145 2003-2004

In some contexts, unwritten norms can be more effective constraints, precisely because they enable a desirable flexibility for dealing with exceptional contexts involving political power. . . . Indeed, advocates of formal legal codification as a solution to problems of political power sometimes trade too easily on an implicit or explicit claim that the only alternative to law is force and chaos. Instead, the alternative to a legal text such as the UN Charter is a world in which limitations on state use of force are left to debate, determination, and enforcement through the system of **international relations** itself. . . . The choice is between the greater rigidity (and loss of flexibility) that tends to come with formal codification and the greater flexibility (and opportunity for unprincipled exercise of power) that comes from a less text-bound system of general principles of international relations. … We should ask, for example, whether the multilateral military intervention in Kosovo that eventually took place (or the international intervention that never did take place in Bosnia) would have been easier to bring about – and many more lives have been saved – had the general norm against state use of force or the mechanisms by which collective force was mobilized been left to political debate and practice, rather than being codified into the form of a strong legal rule embodied in the UN Charter. Would a more flexible interpretation of this principle have been easier to achieve if the general “rule” had been left expressed as a norm instead of being turned into a textually embodied, formal rule of international law? . . . First, the Security Council had to decide whether the conditions that justified collective deployment of force were present in the Kosovo context. Second, once the Security Council failed to come to that conclusion, the further decision had to be made whether the collective use of force by NATO, not endorsed by the Security Council, nonetheless complied with the Charter. … Would collective action to stop the ethnic cleansing in Kosovo have emerged more quickly had the codified provisions of the UN Charter not stood in the way? [Update: I believe roughly a year was spent debating the intervention, including its legality] It is impossible to know, given the relationship between material national self-interest and rule-of-law like considerations in the actions and discourse of states in this area. Would the arguments against intervention have been considered less forceful if the rules of the Charter had not been codified in text but instead existed as softer principles of international relations? If codification of these rules against the use of collective force (except with Security Council authorization, and even then, for perhaps only limited purposes), contributed to inaction or delay in any of these humanitarian contexts in recent years, that would be a serious cost of legal formalization that must be taken into account. Again, remember that we are dealing with relatively exceptional, singular contexts. . . . There is a critical question of whether legalization of norms has, as a dark side, the reduction in flexible interpretation of the underlying norms in new contexts. We ought not to preclude that debate by an overly simple assumption that more law, or more legalization, is always to the good. Perhaps the advantages of general, written rules, despite how over-or under-inclusive they might be – justifies this loss of flexibility; perhaps the relevant actors are likely to be just as appropriately flexible with law as they are with norms. But we need to consider these questions before simply assuming that legalization, clarity, and textual commitment are unadorned virtues.

## 1nr

2 --- war comes before ‘structural’ iniquity

Quester 89

 International-Security Criticisms of Peace ResearchAuthor(s): George H. QuesterReviewed work(s):Source: Annals of the American Academy of Political and Social Science, Vol. 504, PeaceStudies: Past and Future (Jul., 1989), pp. 98-105Published

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 MISSPECIFICATIONS OF PEACE A third major problem to be raised about some forms of peace research and peace studies, again related to what we have already discussed, arises in the tendency to define peace as much more than an absence of the organized violence of warfare, to define it indeed as the elimination also of poverty and injustice and of prejudice and tyranny, and so on-namely, to define peace simply as a synonym for what is good, for what an economist would call utility. Sometimes we are thus told that an opposition to violence must include an opposition to "structural violence,"7 with the latter phrase presumably meaning any organizational or power relationships that violate the moral standards of the beholder, or we **are also told that we** must be in favor of "positive peace," which will include all of these good things, accomplished somehow simultaneously, rather than being content with a "negative peace," limited merely to an absence of warfare. Surely there is a great deal that is lost from all of these definitional innovations, but what is there to be gained? If someone assumed, as noted previously, that consciousnesses somehow have to be raised, then it may well seem important. as an educational and motivational vehicle, to insist that peace includes an end to poverty or racism. If one assumes that there can never be an avoidance of war unless one simultaneously has an avoidance of poverty. Such an approach can apparently be traced to Johan Galtung. See his Peace and Social Structure (Copenhagen: Christian Eljiers, 1978). erty or racism or other social evils, then this causal link will also suggest a definitional link. But, if there is indeed no such one-to-one link in causal relationships and if motivation is not the entirety of the problem of war and peace, then we surely will have thrown away a great deal of clarity if we insist on calling everything bad "war" or "violence" and if we insist on referring to everything we favor as "peace." This would be a little like telling the American Cancer Society that every disease now has to be referred to as "cancer," including heart disease and cholera and meningitis. Can medicine make any progress at all if it is not allowed to use different words for different ailments? Is it really true that to use different words for war and dictatorship and poverty is to weaken our motivation or to accept the inevitability of some evils or actually to favor the existence of such evils? If one goes far enough in accepting the definitional innovations produced by some peace studies curricula, it becomes possible then to define violent attacks as peaceful, as long as they are intended to eliminate racism or injustice, because these attacks are to oppose "structural violence." At the worst, – is kind of redefinition is deliberately misleading, as war and violence are defined as being inappropriate for any cause except one's own ()

th. At a less duplicitous level, we simply have some needless confusion brought into the process, by some relatively honest and well-meaning people. THE SEARCH FOR ULTIMATE SOLUTIONS Advocates of peace research sometimes justify their approach by asserting that they alone are addressing the ultimate or root causes of conflict. Unless one eliminates injustice or racism or prejudice or tyranny, they contend, there can never be a real peace or positive peace. This argument runs the risk, however, of becoming a play on words. Real peace can mean that we approve of every step of the causal chain, going back as far as it can be traced, which might indeed be ideal; but this might hardly be so essential for someone caught in the crossfire of Beirut**, someone who is merely pleading and** praying that the shooting might stop. To imply that a termination of conventional war and an avoidance of nuclear war and an abatement of terrorism are not somehow real would be to blur our understanding of a great deal of what most men and women indeed care about. Similarly, to refer to such an absence of warfare as "negative peace"-as compared with something more positive in "positive peace"-is to use these words of our English language in a manner that substantially underrates the human priority of eliminating warfare, whatever its causes and whatever the remedy. Critics of peace studies would thus come back to argue that these ultimate and genuine reforms of human arrangements for which peace researchers claim such priority are all well and good, but that these may not be capable of being attained in anything less than several centuries. Rather than eliminating all ideological suspicions between Marxists and non-Marxists or eliminating all ethnic dislikes between Greeks and Turks, would it not be a major accomplishment in the meantime to eliminate those kinds of weapons that tend to make wars between such contending factions more likely, and to stress instead the defensive types that discourage military forces from launching attacks? Peace researchers then often reply that any such resignation to intermediate and proximate improvements implies a welcoming of permanent conflict or even a relishing of it or at least an assumption that conflict and hostility are in the natural order of things. But the real issue is surely much more one of whether certain kinds of improvements can be made over certain ranges of time.

3 -- Fear of threats is a key motivator – the alt is worse

Eric A. Posner and Adrian Vermeule 3, law profs at Chicago and Harvard, Accommodating Emergencies, September, <http://www.law.uchicago.edu/files/files/48.eap-av.emergency.pdf>

Legal scholars dwell on the many historical events in which fear appeared to produce bad policy choices. These are the Red Scares, the Banking Panics, and so forth. Fears about Hitler may have resulted in appeasement rather than resistance. But there are as many cases where the absence of fear may have resulted in policies that were weak when they should have been vigorous. Here we count the failed Weimar government before Hitler66 and the Kerensky government before Lenin. Conventional wisdom blames unpreparedness for the 9/11 attacks not on lack of information but on bureaucratic inertia. Leading officials assessed the risks correctly but could not summon the necessary political will. Fear changed this instantly. In the United States before World War II, public complacency about American security behind two oceans hamstrung public officials who were better informed. Roosevelt sought to stir up fear so as to motivate the war effort, by contrast to his effort to suppress fear during the early years of the Great Depression. His contrary actions just show how fear has both good and bad effects, and fear that can be disabling in one context may provide needed motivation in another.

Conclusion

Two popular arguments against constitutional accommodation during emergencies—the ratchet thesis and the panic thesis—are implausible. Critics of constitutional accommodation during emergencies will have to look elsewhere for a justification for their view. We have noted in passing that ratchet and panic arguments have appeared in other contexts, and a natural extension of our paper is examination of these other arguments. Our analysis of constitutional accommodation suggests that ratchet and panic arguments have a powerful rhetorical effect but rest on shaky foundations. The psychological and institutional mechanisms through which ratcheting occurs are rarely specified or justified. And claims about fear or panic rest on a one-sided theory of the emotions, a theory that has been rejected by modern psychology scholarship. Future research should subject all of these claims to greater scrutiny.

4 – War in some instances is key to hold leaders accountable – solves better

Michael Walzer, Professor Emeritus of Social Science at the Institute for Advanced Study and co-Editor of Dissent, 2004, Arguing About War, p. 12-15

This question is sufficiently present in our consciousness that one can watch people trying to respond. There are two responses that I want to describe and criticize. The first comes from what might be called the postmodern left, which does not claim that affirmations of justice are hypocritical, since hypocrisy implies standards, but rather that there are no standards, no possible objective use of the categories of just war theory Politicians and generals who adopt the categories are deluding themselves — though no more so than the theorists who developed the categories in the first place. Maybe new technologies kill fewer people, but there is no point in arguing about who those people are and whether or not killing them is justified. **No agreement about justice, or about guilt or innocence, is possible**. This view is summed up in a line that speaks to our immediate situation: "One man's terrorist is another man's freedom fighter." On this view, there is nothing for theorists and philosophers to do but choose sides, and there is no theory or principle that can guide their choice. **But this is an impossible position, for it holds that we cannot recognize, condemn, and actively oppose the murder of innocent people**.

A second response is to take the moral need to recognize, condemn and oppose very seriously and then to raise the theoretical ante — that is, to strengthen the constraints that justice imposes on warfare. For theorists who pride themselves on living, so to speak, at the critical edge, this is an obvious and understandable response. For many years, we have used the theory of just war to criticize American military actions, and now it has been taken over by the generals and is being used to explain and justify those actions. **Obviously, we must resist**. The easiest way to resist is to make noncombatant immunity into a stronger and stronger rule, until it is something like an absolute rule: **all killing of civilians is** (something close to) **murder**; therefore any war that leads to the killing of civilians is unjust; therefore every war is unjust. So pacifism reemerges from the very heart of the theory that was originally meant to replace it. This is the strategy adopted, most recently, by many opponents of the Afghanistan war. The protest marches on American campuses featured banners proclaiming, "Stop the Bombing!" and the argument for stopping was very simple (and obviously true): bombing endangers and kills civilians. The marchers did not seem to feel that anything more had to be said.

Since I believe that war is still, sometimes, necessary, this seems to me a bad argument and, more generally, a bad response to the triumph of just war theory. It sustains the critical role of the theory vis-a-vis war generally, but it denies the theory the critical role it has always claimed, which is internal to the business of war and requires critics to attend closely to what soldiers try to do and what they try not to do. The refusal to make distinctions of this kind, to pay attention to strategic and tactical choices, suggests a doctrine of radical suspicion. This is the radicalism of people who do not expect to exercise power or use force, ever, and who are not prepared to make the judgments that this exercise and use require. By contrast, **just war theory**, even when it demands a strong critique of particular acts of war, is the doctrine of people who do expect to exercise power and use force. We might think of it as a doctrine of radical responsibility, because it **holds political and military leaders responsible**, first of all, for the well-being of their own people, but also for the wellbeing of innocent men and women on the other side. Its proponents set themselves against those who will not think realistically about the defense of the country they live in and also against those who refuse to recognize the humanity of their opponents. They insist that there are things that it is morally impermissible to do even to the enemy. They also insist, however, that fighting itself cannot be morally impermissible. A just war is meant to be, and has to be, a war that it is possible to fight.

But there is another danger posed by the triumph of just war theory —not the radical relativism and the near absolutism that I have just described, but rather a certain softening of the critical mind, a truce between theorists and soldiers. If intellectuals are often awed and silenced by political leaders who invite them to dinner, how much more so by generals who talk their language? And if the generals are actually fighting just wars, if inter arma the laws speak, what point is there in anything we can say? In fact, however, our role has not changed all that much. We still have to insist that war is a morally dubious and difficult activity. Even if we (in the West) have fought just wars in the Gulf, in Kosovo, and in Afghanistan, that is no guarantee, not even a useful indication, that our next war will be just. And even if the recognition of noncombatant immunity has become militarily necessary, it still conflicts with other, more pressing, necessities. **Justice still needs to be defended; decisions about when and how to fight require constant scrutiny, exactly as they always have**.

At the same time, we have to extend our account of "when and how" to cover the new strategies, the new technologies, and the new politics of a global age. Old ideas may not fit the emerging reality: the "war against terrorism," to take the most current example, requires a kind of international cooperation that is as radically undeveloped in theory as it is in practice. We should welcome military officers into the theoretical argument; they will make it a better argument than it would be if no one but professors took an interest. But we cannot leave the argument to them. As the old saying goes, war is too important to be left to the generals; just war even more so. The ongoing critique of war-making is a centrally important democratic activity.

Consistent with their impact

Jean Bethke Elshtain, Laura Spelman Rockefeller Professor of Social and Political Ethics, Divinity School, The University of Chicago, with appointments in Political Science and the Committee on International Relations, 2008, Peace, Order, Justice: Competing Understandings, Millennium - Journal of International Studies, 36: 413

We arrive, finally at model III. Let’s call this hard-headed peace. This is a peace that is mindful at every point of justice claims and the overriding need for at least a modicum of civil order and tranquility if other worthy goals, including justice claims, are to be heard and worked towards at all. Within hard-headed peace, various dichotomies – not only realism/ idealism but peace/war – as absolutes, break down. We recognise, with Hedley Bull and others, that war plays a central role in the maintenance of international law and the preservation of the balance of power, thereby effecting changes that are just. Of course, war can also be a destroyer of order and a force for injustice – but we cannot pace, the peace advocates I have criticised - condemn every war in advance as necessarily a paragon of the latter rather than the former.

As with every human endeavour this limited – neither absolute nor perpetual – peace is a precious, fragile human achievement. Its advocates recognise that we often need disturbers of the peace should a ‘peace’ be unjust even as we require defenders of the peace against those who would overturn it in the name of some dangerously eschatological political ideology – the triumph of the Aryan race, the triumph of the universal class – with their death camps and gulags to deal with those who stand in the way of the absolutist projects.

I recall being haunted by a story I read – an ancient Chinese parable – of the necessary precondition for perpetual peace, namely, that one should be so far removed from any other ‘city’ that, in the dead calm of night, the echoes of a dog barking could not carry – not alert some other city that aliens, strangers, were within striking distance. Your only options, if you heard that dog bark, were to go kill the inhabitants of the other city and destroy it or to incorporate them – to make them as ‘one’ with yourself – for the mere existence of this alien entity marred ‘peace’. Extreme, yes. But instructive, for it alerts us to the often ontologically suspicious features or absolute or perpetual peace – the presence of the alien suffices to mar it.

As much as I loved the late John Lennon and remain an unreconstructed Beatlesmaniac – his song ‘Imagine’ is the stringing together of empty banalities: no states, no religion, nothing to kill or die for, and the world will be as one. Fat chance. I don’t know how one gets from the song’s subjectivist anarchy to perpetual peace but we confront the high hill of moral upmanship yet again in popular, simplistic form.

If, however, you find the moral problems of international politics ‘infinitely complex, bewildering and perplexing’, in Martin Wight’s words, it makes you a ‘natural Grotian’.15 I’m going to have to reflect on his claim a bit more but this much is clear to me:

**War will never be abolished, so we must limit it** ethically and politically **in the manner of just war** teaching and here debates will turn on how hick’ the restraints must be; Human nature – yes, I said it – politically incorrect as it is – is a complex admixture of good and evil, nastiness and niceness, good Harry Potter with a bit of evil Voldemortian temptation thrown in and this is unavoidable That means we should be appropriately humble about even our best intentions, for on this earth there is neither absolute good nor absolute evil as a characteristic of either persons or states;

Violence is proximately caused – root cause logic is poor scholarship

**Sharpe**, lecturer, philosophy and psychoanalytic studies, and Goucher, senior lecturer, literary and psychoanalytic studies – Deakin University, **‘10**

(Matthew and Geoff, Žižek and Politics: An Introduction, p. 231 – 233)

We realise that this argument, which we propose as a new ‘quilting’ framework to explain Žižek’s theoretical oscillations and political prescriptions, raises some large issues of its own. While this is not the place to further that discussion, we think its analytic force leads into a much wider critique of ‘Theory’ in parts of the latertwentieth- century academy, which emerged following the ‘cultural turn’ of the 1960s and 1970s in the wake of the collapse of Marxism. Žižek’s paradigm to try to generate all his theory of culture, subjectivity, ideology, politics and religion is psychoanalysis. But a similar criticism would apply, for instance, to theorists who feel that the method Jacques Derrida developed for criticising philosophical texts can meaningfully supplant the methodologies of political science, philosophy, economics, sociology and so forth, when it comes to thinking about ‘the political’. Or, differently, thinkers who opt for Deleuze (or Deleuze’s and Guattari’s) Nietzschean Spinozism as a new metaphysics to explain ethics, politics, aesthetics, ontology and so forth, seem to us candidates for the same type of **criticism, as a reductive passing over** the **empirical and analytic distinctness of** the **different** object **fields in complex societies.**

In truth, we feel that Theory, and the continuing line of ‘master thinkers’ who regularly appear particularly in the English- speaking world, is the last gasp of what used to be called First Philosophy. The philosopher ascends out of the city, Plato tells us, from whence she can espie the Higher Truth, which she must then bring back down to political earth. From outside the city, we can well imagine that she can see much more widely than her benighted political contemporaries. But from these philosophical heights, we can equally suspect that the ‘master thinker’ is also **always in danger of passing over** the **salient differences** and features of political life – differences only too evident to people ‘on the ground’. Political life, after all, is always a more complex affair than a bunch of ideologically duped fools staring at and enacting a wall (or ‘politically correct screen’) of ideologically produced illusions, from Plato’s timeless cave allegory to Žižek’s theory of ideology.

We know that Theory largely understands itself as avowedly ‘post- metaphysical’. It aims to erect its new claims on the gravestone of First Philosophy as the West has known it. But it also tells us that people very often do not know what they do. And so it seems to us that too many of its proponents and their followers are mourners who remain in the graveyard, propping up the gravestone of Western philosophy under the sign of some totalising account of absolutely everything – enjoyment, différance, biopower . . . Perhaps the time has come, we would argue, less for one more would- be global, allpurpose existential and political Theory than for a **multi- dimensional and interdisciplinary** critical **theory** that would challenge the chaotic specialisation neoliberalism speeds up in academe, which mirrors and accelerates the splintering of the Left over the last four decades. This would mean that we would have to shun the hope that one method, one perspective, or one master thinker could single- handedly decipher all the complexity of socio- political life, the concerns of really existing social movements – which specifi cally does not mean mindlessly celebrating difference, marginalisation and multiplicity as if they could be suffi cient ends for a new politics. **It would be to reopen critical theory and non- analytic philosophy to the other intellectual disciplines**, most of **whom** today **pointedly reject Theory’s legitimacy,** neither reading it nor taking it seriously.

Threat rhetoric doesn’t cause war – how it’s received is key

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(Paul, “Securitization and Minority Rights: Conditions of Desecuritization,” *Security Dialogue*, Vol. 35, No. 3, September)

However, not all issues presented in this way will necessarily be successful; some issues may be just ‘securitizing moves’. This is explained by the fact that successful securitization is predicated on the intersubjective establishment of existential threat. As a result: The way to study securitization is to study discourse. . . . When does an argument with this particular rhetorical and semiotic structure achieve sufficient effect to make an audience tolerate violations of rules that would otherwise have been obeyed? If by means of an argument about the priority and urgency of an existential threat the securitizing actor has managed to break free of procedures or rules he or she would otherwise be bound by, we are witnessing a case of securitization (Buzan, Wæver & de Wilde, 1998: 25). Securitization is thus a kind of ‘call and response’ process: an actor makes a call that something is a matter of ‘security’, and **the audience must then respond with their acceptance** of it as such. The argument has to be framed in such a way as to achieve the level of resonance required to legitimize emergency measures. If there is no such level of acceptance, then securitization will have failed.

Causes endless paradigm wars

**Wendt**, professor of international security – Ohio State University, **‘98**

(Alexander, “On Constitution and Causation in International Relations,” British International Studies Association)

As a community, we in the academic study of international politics spend too much time worrying about the kind of issues addressed in this essay. The **central point** of IR scholarship is to increase our knowledge of how the world works, not to worry about how (or whether) we can know how the world works. What matters for IR is ontology, not epistemology. This doesn’t mean that there are no interesting epistemological questions in IR, and even less does it mean that there are no important political or sociological aspects to those questions. Indeed there are, as I have suggested above, and as a discipline IR should have more awareness of these aspects. At the same time, however, these are questions best addressed by philosophers and sociologists of knowledge, not political scientists. Let’s face it: most IR scholars, including this one, have little or no proper training in epistemology, and as such the attempt to solve epistemological problems anyway will **inevitably lead to confusion** (after all, **after 2000 years, even** the **specialists are still having a hard time**). Moreover, as long as we let our research be driven in an open-minded fashion by substantive questions and problems rather than by epistemologies and methods, there is little need to answer epistemological questions either. It is simply not the case that we have to undertake an epistemological analysis of how we can know something before we can know it, a fact amply attested to by the success of the natural sciences, whose practitioners are only rarely forced by the results of their inquiries to consider epistemological questions. In important respects we do know how international politics works, and it doesn’t much matter how we came to that knowledge. In that light, going into the epistemology business will distract us from the real business of IR, which is international politics. **Our great debates should be about first-order issues of substance**, like the ‘first debate’ between Realists and Idealists, **not second-order issues of method.**

Unfortunately, it is no longer a simple matter for IR scholars to ‘just say no’ to epistemological discourse. The problem is that this discourse has already contaminated our thinking about international politics, helping to polarize the discipline into ‘**paradigm wars’**. Although the resurgence of these wars in the 1980s and 90s is due in large part to the rise of post-positivism, its roots lie in the epistemological anxiety of positivists, who since the 1950s have been very concerned to establish the authority of their work as Science. This is an important goal, one that I share, but its implementation has been marred by an overly narrow conception of science as being concerned only with causal questions that can be answered using the methods of natural science. The effect has been to marginalize historical and interpretive work that does not fit this mould, and to encourage scholars interested in that kind of work to see themselves as somehow not engaged in science. One has to wonder whether the two sides should be happy with the result. Do positivists really mean to suggest that it is not part of science to ask questions about how things are constituted, questions which if those things happen to be made of ideas might only be answerable by interpretive methods? If so, then they seem to be saying that the double-helix model of DNA, and perhaps much of rational choice theory, is not science. And do post-positivists really mean to suggest that students of social life should not ask causal questions or attempt to test their claims against empirical evidence? If so, then it is **not clear by what criteria their work should be judged**, **or how it differs from art or revelation**. On both sides, in other words, the result of the Third Debate’s **sparring over epistemology is often one-sided, intolerant caricatures** of science.

Academy and security apparatus isnt bad use accurate intelligence and rent seeking and flawed concepts --- career termination ravenal ev

Predictions and scenario building are valuable for decision-making, even if they’re not perfect

**Garrett 12**

Banning, In Search of Sand Piles and Butterflies, director of the Asia Program and Strategic Foresight Initiative at the Atlantic Council.

http://www.acus.org/disruptive\_change/search-sand-piles-and-butterflies

 “Disruptive change” that produces “strategic shocks” has become an increasing concern for policymakers, shaken by momentous events of the last couple of decades that were not on their radar screens – from the fall of the Berlin Wall and the 9/11 terrorist attacks to the 2008 financial crisis and the “Arab Spring.” These were all shocks to the international system, predictable perhaps in retrospect but predicted by very few experts or officials on the eve of their occurrence. This “failure” to predict specific strategic shocks does not mean we should abandon efforts to foresee disruptive change or look at all possible shocks as equally plausible. Most strategic shocks do not “come out of the blue.” We can understand and project long-term global trends and foresee at least some of their potential effects, including potential shocks and disruptive change. We can construct alternative futures scenarios to envision potential change, including strategic shocks. Based on trends and scenarios, we can take actions to avert possible undesirable outcomes or limit the damage should they occur. We can also identify potential opportunities or at least more desirable futures that we seek to seize through policy course corrections. We should distinguish “strategic shocks” that are developments that could happen at any time and yet may never occur. This would include such plausible possibilities as use of a nuclear device by terrorists or the emergence of an airborne human-to-human virus that could kill millions. Such possible but not inevitable developments would not necessarily be the result of worsening long-term trends. Like possible terrorist attacks, governments need to try to prepare for such possible catastrophes though they may never happen. But there are other potential disruptive changes, including those that create strategic shocks to the international system, that can result from identifiable trends that make them more likely in the future—for example, growing demand for food, water, energy and other resources with supplies failing to keep pace. We need to look for the “sand piles” that the trends are building and are subject to collapse at some point with an additional but indeterminable additional “grain of sand” and identify the potential for the sudden appearance of “butterflies” that might flap their wings and set off hurricanes. Mohamed Bouazizi, who immolated himself December 17, 2010 in Sidi Bouzid, Tunisia, was the butterfly who flapped his wings and (with the “force multiplier” of social media) set off a hurricane that is still blowing throughout the Middle East. Perhaps the metaphors are mixed, but the butterfly’s delicate flapping destabilized the sand piles (of rising food prices, unemployed students, corrupt government, etc.) that had been building in Tunisia, Egypt, and much of the region. The result was a sudden collapse and disruptive change that has created a strategic shock that is still producing tremors throughout the region. But the collapse was due to cumulative effects of identifiable and converging trends. When and what form change will take may be difficult if not impossible to foresee, but the likelihood of a tipping point being reached—that linear continuation of the present into the future is increasingly unlikely—can be foreseen. Foreseeing the direction of change and the likelihood of discontinuities, both sudden and protracted, is thus not beyond our capabilities. While efforts to understand and project long-term global trends cannot provide accurate predictions, for example, of the GDPs of China, India, and the United States in 2030, looking at economic and GDP growth trends, can provide insights into a wide range of possible outcomes. For example, it is a useful to assess the implications if the GDPs of these three countries each grew at currently projected average rates – even if one understands that there are many factors that can and likely will alter their trajectories. The projected growth trends of the three countries suggest that at some point in the next few decades, perhaps between 2015 and 2030, China’s GDP will surpass that of the United States. And by adding consideration of the economic impact of demographic trends (China’s aging and India’s youth bulge), there is a possibility that India will surpass both China and the US, perhaps by 2040 or 2050, to become the world’s largest economy. These potential shifts of economic power from the United States to China then to India would likely prove strategically disruptive on a global scale. Although slowly developing, such disruptive change would likely have an even greater strategic impact than the Arab Spring. The “rise” of China has already proved strategically disruptive, creating a potential China-United States regional rivalry in Asia two decades after Americans fretted about an emerging US conflict with a then-rising Japan challenging American economic supremacy. Despite uncertainty surrounding projections, foreseeing the possibility (some would say high likelihood) that China and then India will replace the United States as the largest global economy has near-term policy implications for the US and Europe. The potential long-term shift in economic clout and concomitant shift in political power and strategic position away from the US and the West and toward the East has implications for near-term policy choices. Policymakers could conclude, for example, that the West should make greater efforts to bring the emerging (or re-emerging) great powers into close consultation on the “rules of the game” and global governance as the West’s influence in shaping institutions and behavior is likely to significantly diminish over the next few decades. The alternative to finding such a near-term accommodation could be increasing mutual suspicions and hostility rather than trust and growing cooperation between rising and established powers—especially between China and the United States—leading to a fragmented, zero-sum world in which major global challenges like climate change and resource scarcities are not addressed and conflict over dwindling resources and markets intensifies and even bleeds into the military realm among the major actors. Neither of these scenarios may play out, of course. Other global trends suggest that sometime in the next several decades, the world could encounter a “hard ceiling” on resources availability and that climate change could throw the global economy into a tailspin, harming China and India even more than the United States. In this case, perhaps India and China would falter economically leading to internal instability and crises of governance, significantly reducing their rates of economic growth and their ability to project power and play a significant international role than might otherwise have been expected. But this scenario has other implications for policymakers, including dangers posed to Western interests from “failure” of China and/or India, which could produce huge strategic shocks to the global system, including a prolonged economic downturn in the West as well as the East. Thus, looking at relatively slowly developing trends can provide foresight for necessary course corrections now to avert catastrophic disruptive change or prepare to be more resilient if foreseeable but unavoidable shocks occur. Policymakers and the public will press for predictions and criticize government officials and intelligence agencies when momentous events “catch us by surprise.” But unfortunately, as both Yogi Berra and Neils Bohr are credited with saying, “prediction is very hard, especially about the future.” One can predict with great accuracy many natural events such as sunrise and the boiling point of water at sea level. We can rely on the infallible predictability of the laws of physics to build airplanes and automobiles and iPhones. And we can calculate with great precision the destruction footprint of a given nuclear weapon. Yet even physical systems like the weather as they become more complex, become increasingly difficult and even inherently impossible to predict with precision. With human behavior, specific predictions are not just hard, but impossible as uncertainty is inherent in the human universe. As futurist Paul Saffo wrote in the Harvard Business Review in 2007, “prediction is possible only in a world in which events are preordained and no amount of actions in the present can influence the future outcome.” One cannot know for certain what actions he or she will take in the future much less the actions of another person, a group of people or a nation state. This obvious point is made to dismiss any idea of trying to “predict” what will occur in the future with accuracy, especially the outcomes of the interplay of many complex factors, including the interaction of human and natural systems. More broadly, the human future is not predetermined but rather depends on human choices at every turning point, cumulatively leading to different alternative outcomes. This uncertainty about the future also means the future is amenable to human choice and leadership. Trends analyses—including foreseeing trends leading to disruptive change—are thus essential to provide individuals, organizations and political leaders with the strategic foresight to take steps mitigate the dangers ahead and seize the opportunities for shaping the human destiny. Peter Schwartz nearly a decade ago characterized the convergence of trends and disruptive change as “inevitable surprises.” He wrote in Inevitable Surprises that “in the coming decades we face many more inevitable surprises: major discontinuities in the economic, political and social spheres of our world, each one changing the ‘rules of the game’ as its played today. If anything, there will be more, no fewer, surprises in the future, and they will all be interconnected. Together, they will lead us into a world, ten to fifteen years hence, that is fundamentally different from the one we know today. Understanding these inevitable surprises in our future is critical for the decisions we have to make today …. We may not be able to prevent catastrophe (although sometimes we can), but we can certainly increase our ability to respond, and our ability to see opportunities that we would otherwise miss.

Applies to war on terror – the aff guarantees global violence through naïve rejection of necessary responses to specific threats

Jean Bethke Elshtain, Laura Spelman Rockefeller Professor of Social and Political Ethics, Divinity School, The University of Chicago, with appointments in Political Science and the Committee on International Relations, 2003, Just War Against Terror, p. 107-11

Writing shortly after the world had only just passed through the horror that was World War II, Niebuhr chided those who had shrunk from doing what was necessary to combat Nazi tyranny, especially those who made the claim that in the process of fighting fascism, "we would all become fascists."17 **This did not happen**. Liberties were "fairly well preserved" even during a prolonged, total war (with some notable exceptions, like the internment of Japanese and Japanese Americans). We are always well advised to fly the flags of warning about descending into terror as we fight terror, or authoritarianism as we fight authoritarianism. But these perils do not negate the need to respond; rather, they make self-examination even more necessary.

The peace of God, writes Niebuhr, "cannot be equated with the peace of detachment." There is a role for forgiveness in human affairs, but forgiveness does not allow us to avoid facing the facts and confronting a disharmonious world. Forgiveness is possible "only to those who have some recognition of common guilt," for all have fallen short.18 Those struggling against brutality cannot forget their own sins as they engage in that struggle. The world of political action is one that may give rise to moral regret as we confront what political theorists call the problem of "dirty hands," for we cannot remain pure in a difficult and often dangerous world. Christian realists, as they are often called, appreciate that "political units—cities, provinces, and nations. . . gather up all people within a given geographical area, and so must create a workable community from those who have not come together sharing a set of beliefs or commitments."19 Politics is the way these plural, diverse groups of people order a life together.

The theologian Robin Lovin reminds us that the starting point for Christian realists (and for the just war tradition, as I construe it) is Augustinian and hence quite different from Aristotelianism, which held that politics somehow fulfills and completes our nature (or at least the nature of the more completely rational free male). The primary and most compelling reason Christians enter politics, by contrast, is to restrain evi1.20 If the restraint of evil remains their exclusive concern, however, they may become complacent toward systematic inequities, so long as violence is kept at a minimum. By the same token, a politics of the common good, which always sounds good, may prompt its adherents to **evade doing what is necessary to curb violence**, domestic and international; they may indulge in naive advocacy and refuse to engage with the least pleasant realities of a world in conflict. "**Justice" and "nonviolence" too easily become mantras divorced from the realities of a world descending into a vortex of horrible threats and even more terrible realities**.

By contrast, those who, like Niebuhr, link the restraint of evil to a politics of justice and the common good gain a rich and complex perspective. Above all, Niebuhr insists, Christians dare not lose the language of justice. No doubt he would have cautioned us against calling September 11 a tragedy: If it is a tragedy, we can simply succor the wounded and grief-stricken and avoid dealing with the knowledge that planned terror remains a clear and present danger. Usually when a true tragedy occurs—a flood roars through a canyon, for instance, and kills vacationers—there is no one to punish. When acts of terror destroy lives, however, there are specific persons we do, rightly, punish. It is this task of punishment, essential to any workable vision of political justice, that many contemporary Christians shun.21 Perhaps because our culture, steeped in a therapeutic ethos, is tuned in to syndromes but resistant to sin, we prefer not to conjure with humanly willed horror.

Tied to this recognition is another: We have particular moral responsibilities to those nearest and dearest to us—parents to children, friends to other friends, but also citizens to fellow citizens. Vague talk about our responsibility for the entire human race is meaningless.22 **Unless we tie our responsibility to concrete tasks, we are simply issuing greeting card nostrums**. To call myself a "citizen of the world," as Hannah Arendt rightly insisted, is to strip citizenship of concrete meaning and to flee the world of political actuality for a world of vague goodwill. Those who take on the vocation of concrete political responsibility have a special obligation to their fellow citizens. Their obligations are not exclusive to their own citizenry, but they are far more meaningful and demanding than any thinned-out obligations to those who are not citizens. One dimension of a Niebuhrian ethic is to insist that, when Christianity is interpreted as an ethos of universal benevolence, it loses the concrete neighbor love we should always connect with it.

Niebuhr's larger contribution to the ongoing debate about Christ and culture and what is demanded from believers lies in his hardheaded insistence that Christianity is not solely a religion of love. Because the God of mercy is also a God of judgment, justice and love go together. Chiding what he calls "Christian moralism," Niebuhr reminds us that justice "requires discriminate judgments between conflicting claims." By contrast to simplistic moralism, a "profounder Christian faith must encourage men to create systems of justice" in a realm that presents "tragic choices, which are seldom envisaged in a type of idealism in which all choices are regarded as simple."23

Unfortunately, what presents itself as true Christian idealism, the idea that "pure moral suasion could solve every social problem," may be a form of self-delusion. This kind of idealism ignores the fall and the inheritance of sin and embraces an overly optimistic view of human nature and possibility. Niebuhr continues: "Whether the task of reconciliation is conceived in terms of pure moral suasion or whether it recognizes the inevitabilities of conflict in society and only seeks to avoid violence in such conflicts, it is interesting that the consequence of such conceptions is to create moral idealists who imagine that they are changing the world by their moral ideals." Or, one might add, by their condemnations. But either stance evades "responsibility for maintaining a relative justice in an evil world," a stance that Niebuhr insists is central to biblical understanding.24

Whether Niebuhr was calling for repeal of the Neutrality Act of 1939 as an immoral law promoting isolationism, urging Christians into the fight against Nazism, or opposing the war in Vietnam, he held that the world must be engaged. Sentimentality in the name of Christianity must be avoided and idolatry of the state—any state—eschewed. Christians must understand that their own freedom is entangled with political realities and possibilities. It follows that Christians as citizens have "an important stake in politics" and in all the institutions that are the warp and woof of a democratic society.25 Niebuhr was especially scathing in his criticism of those who advocate a withdrawal from what he called "world responsibility"—**people who keep their own hands clean by refusing to confront the inevitable moral ambiguities of politics**.

Most pertinent to the contemporary war against terrorism are Niebuhr's World War II–era writings. In a potent essay, "Love Your Enemies," Niebuhr argued with a "certain rather hysterical" strain of Christian idealism that believed that, since Christians are enjoined to love all men, and "it is impossible to love an enemy, you must have no enemy." Is this really so? he queried. He challenged those who were then "touring the country with the message that all people who are participating in the war will become so corrupted by hatred that they will be incapable of contributing to a decent peace." Niebuhr called, in cutting tones, on "the handful of nonparticipants to hold themselves in readiness to build a new world after the rest of us have ruined it."26

A summary of Niebuhr's response to this idealistic message—here one is reminded of Camus's see-no-evil "humanists"—is reducible to one word: **balderdash**. Of course, war and conflict tempt some to hatred, but "this hatred is not nearly as universal as our idealists assume. And it is least general among those who are engaged in the actual horrors of belligerency." Niebuhr points to a commonly accepted fact of war-fighting: combatants themselves usually do not hate. Bloodthirstiness is more often found on the sidelines. Niebuhr also mulls over the poverty of the idealists' deployment of terms like "love." Christian agape, the love of the Kingdom of God, is more than a "refined form of sympathy, for it does not depend upon the likes and dislikes that men may have for each other."27 We may struggle against a determined foe intent on our harm and destruction without hating that foe.

Yet criticism of and contempt for, the military comes readily to the lips of many religious people, perhaps because they put the worst possible interpretation on those who have determined that a resort to force is justified. Niebuhr insists, however, that such contempt flows from a sentimentalized Christianity whose adherents have reduced the complexities of the Christian message to slogans that exalt alleged victims, encourage condemnation of responsible authorities, and traffic in attention-getting breast-beating. Sometimes what looks like self-effacement is really a form of self-promotion.

On December 18, 1940, pondering America's entry into World War II, Niebuhr published an essay, "To Prevent the Triumph of an Intolerable

Tyranny," in the journal Christian Century.28 America was not, as some alleged, plunging recklessly into conflict, Niebuhr argues. To the contrary, "contemporary history refutes the idea that nations are drawn into war too precipitately. It proves, on the contrary, that it is the general inclination, of democratic nations at least, to hesitate so long before taking this fateful plunge that the dictator nations gain a fateful advantage over them by having the opportunity of overwhelming them singly, instead of being forced to meet their common resistance." (Niebuhr was referring to appeasement of the German National Socialists, who, by the time the essay was written, had already overrun Poland and Czechoslovakia.) It is naive to assume that "all war could be avoided if only you could persuade nations not to cross each other's borders." Those who counseled neutrality for America in 1940 so as to avoid entering the conflict, Niebuhr claims, exhibited the fruit of a "moral confusion that issues from moral perfectionism, whenever moral perfectionism seeks to construct political systems." The result is that evil flourishes, as in Germany, "its fury . . fed by a pagan religion of tribal self-glorification; . . . it intends to root out the Christian religion; . . . it defies all the universal standards of justice," and it threatens the Jewish people "with annihilation."

**How can one not respond to** such **attacks**? To condemn America's alleged rush to war, to make that the focus of critique rather than the statements and aims of those on the attack, is a rhetoric of perfectionism of the sort **that** informs much of liberal Protestantism in America. This brand of Protestantism, Niebuhr stated rather bitingly during World War II, **is "wrong not only about this war and the contemporary international situation. It is wrong about the whole nature of historical reality.**" Sadly, he concludes, much pacifism in America (he calls it "perfectionist pacifism") springs from this same well of historic utopianism rather than from solid scriptural resources. Liberal pacifism, for Niebuhr, is a position that relies far more on a general faith in human perfectibility and a teleology of historic progress than it does on the teachings of Jesus of Nazareth. It is, in other words, an ideological, not a gospel, stance.29 Are Christians not obliged to respond, even at the risk of dirtying their hands?

All lives are infinitely valuable, the only ethical option is to maximize the number saved

**Cummisky, 96** (David, professor of philosophy at Bates, Kantian Consequentialism, p. 131)

Finally, even if one grants that saving two persons with dignity cannot outweigh and compensate for killing one—because dignity cannot be added and summed in this way—this point still does not justify deontologieal constraints. On the extreme interpretation, why would not killing one person be a stronger obligation than saving two persons? If I am concerned with the priceless dignity of each, it would seem that 1 may still saw two; it is just that my reason cannot be that the two compensate for the loss of the one. Consider Hills example of a priceless object: If I can save two of three priceless statutes only by destroying one. Then 1 cannot claim that saving two makes up for the loss of the one**. But** Similarly, **the loss of the two is not outweighed by** the **one** that was **not destroyed**. Indeed, even if dignity cannot be simply summed up. How is the extreme interpretation inconsistent with the idea that I should save as many priceless objects as possible? Even if two do not simply outweigh and thus compensate for the lass of the one, each is priceless: thus, I have good reason to save as many as I can. In short, it is not clear how the extreme interpretation justifies the ordinary killing'letting-die distinction or even how it conflicts with the conclusion that the more persons with dignity who are saved, the better.\*

Exertion of violence to kill terrorists is ethically required

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IN THIS CHAPTER, I CONSIDER two related questions: How does a democratic society defend itself? And can force be an instrument of justice? An additional feature of the just war tradition, less emphasized than self-defense, holds that the governments and citizens of one country may be called upon to protect citizens of another country, or a minority within that country, who are not in a position to defend themselves from harm. "Protecting the innocent from certain harm" may require armed force in order to interdict and punish aggressors, especially aggressors whose war aim is the death and conquest of as many noncombatants as possible. There are those who insist that no nation is obliged in this way to come to the assistance of another. They dismiss the possibility that force can be an instrument of justice. They believe that international entities should rise up to take care of the problem. Thus far, however, the track record of nonstate organizations as effective bodies to interdict violence and punish aggression is not impressive.

Given the contrast between the demonstrated ineffectiveness of international organizations to roll back violence and the track record of particular states, particularly the United States, in deflecting and muting interstate violence, let's make this question more specific. In asking, how does a democratic society defend itself, let's assume that the democratic society in question is not just any constitutional order but the United States. The role of preventing or interdicting violence in other countries is not new to the United States; it was thrust upon the United States in 1989 when it became the world's only superpower.

The shock waves that rippled around the globe in the wake of September 11 reminded us that the expectation of American power, American stability, and American continuity is a basic feature of international order. Whether people celebrate this fact or lament it, it is undeniably the case that American political, diplomatic, economic, and military power now structures and anchors the international system. Small wonder that many of us compared the plenary jolt to the world's nervous system delivered on September 11, 2001, to the sack of Rome by the Vandals in A.D. 410. As word made its way through the civilized world about Rome's vulnerability, no one could believe it, including those who were not lovers of Rome. Roman law and rule provided stability and a point of reference. Rome was the umbrella of power under which so much else stood.

The analogy is not perfect, of course. We are the world's longest-lived constitutional republic. Postrepublican Rome was governed by often brutal emperors, and transfers of power could be a bloody, not very peaceful business. But the closest modern equivalent to the city of Rome is New York City—a polyglot metropolis with an astonishingly complex mix of languages and peoples from all other cultures. New York City is an astounding achievement. Now that the dust storms of September 11 have settled, what have we learned from the attacks on Washington, our capital city, and New York, our cosmopolitan lodestar? What has been revealed through this cataclysmic event?

APPEASEMENT DOESN'T WORK

As I write these words in the summer of 2002, we have word about a cache of 251 Al Qaeda tapes captured in the Afghan operation. Several of these gruesome tapes show "what appears to be the agonizing death of three dogs exposed to a chemical agent, apparently before September 11." The tape archive also includes detailed instructions on making bombs and shooting surface-to-air missiles (SAMs) and a variety of violent tapes contributed by "affiliated groups in Bosnia, Chechnya, Somalia, Sudan and elsewhere."1

Experts who watched many hours of these tapes suggested hat Western intelligence agencies might even now be underestimating Al Qaeda. One such expert, Magnus Ranstorp, director-designate of the Center for the Study of Terrorism and Political Violence at the University of St. Andrews in Scotland, stated: "In conjunction with the Encyclopedia of Jihad and other written manuals, the tapes show meticulous planning, preparation, and attention to the tradecraft of terror."2

Let's remind ourselves: These tapes are not about classic strategies of war and warmaking and the training of soldiers. Their theme, instead, is terror. We have defined terror as violence that targets noncombatants, is random and unpredictable, and aims to sow overwhelming fear in a population. This goal contrasts to the targeting strategies of traditional warmaking, whose goal is disabling the opponent's ability to fight back. Soldiers fight combatants. Terrorists kill civilians intentionally hoping that the terrorized survivors will eventually surrender or demand peace at any price—the definition of conquest in the terrorist lexicon.

These reflections mesh with classic Augustinian thinking, whether in its just war or Christian realist incarnations. Augustinians are painfully aware of the temptation to smash, destroy, damage, and humiliate. Such temptations may be struggled against, capitulated to, or even extolled as a form of strength and the path to victory. Violence unleashed when what Augustine called the libido dominandi, or lust to dominate, is unchecked is violence that recognizes no limits. It is violence that kills politics. Whereas classic warfare is the continuation of politics by other means, terrorism is the destruction of politics by all possible means.

Because the terrorist goal is so brutal, human beings whose capacity for compassion is intact find it difficult to believe that there are other human beings with whom we cannot calmly reason or negotiate. And indeed, paranoid persons of a terrorist mentality who have surrounded themselves with a protective cordon sanitaire and want only to be left alone may not be a huge concern (unless, of course, a group of such persons is systematically destroying a minority within its own popula

don or otherwise abusing people in significant and harmful ways). But when the clearly stated terrorist aim is to kill Americans wherever and whenever possible, we are confronting an implacable foe with whom it is impossible to have a diplomatic "sit-down."

A distinguished Johns Hopkins University psychiatrist, Paul R. McHugh, in exploring the mentality of the fanatic, rejects the psychological thinking that claims Americans were driven to extreme anxiety by the destruction of the twin towers because the towers were such obvious "phallic symbols." McHugh is having none of this silliness as he writes:

Americans felt anxiety not because the towers of the World Trade Center were longer than they were wide, but because witnessing the cruel deaths of so many of our fellow citizens—horribly killed as they went about their daily lives, unsuspecting and unprotected—naturally provokes grief, anger, and fear. The brutal indiscriminate slaughter of thousands of people in an instant, along with the sight of their bodies dropping like debris from dizzying heights, should produce pity [and] grief . . . in anyone with an ounce of fellow feeling.3

It is important to take the measure of people who not only are capable of planning and executing such deeds but are gleeful about the lives lost and exult in the terrible devastation to so many families. McHugh reminds us that we are talking about a form of behavior, not just a way of thinking or fantasizing. What we ordinarily speak of as "fanaticism" the psychiatrist is likely to call an "overvalued idea." An overvalued idea drives those who hold it to take action of a certain sort—action that examines no alternative. The fanatic surrounds himself with others of like mind, brooking no dissent. He (or she) becomes cold, paranoid, and aggressive.

The imagination of the fanatic runs wild. One horror, like September 11, must be followed by others. What can we bring down next? Terrorist behavior, once undertaken, feeds on itself, as do other forms of violent criminality. This is a point made by the great psychoanalyst and cultural historian Erik Erikson years ago in a discussion of Hitler's youth. Hitler's awareness of certain dynamics of the human mind and of human behavior led him to implicate recruits to National Socialism early on in deeds of violence from which there was no turning back. Once these recruits had assaulted, bloodied, and perhaps killed their first Jew, the second became easier, and the third easier yet. As McHugh notes, the behavior of terrorists "is maintained by its consequences, especially the publicity that draws attention to the terrorist and his ideas**." The only way to stop this escalation is interdiction**: "The American government should devote its energies to interrupting the terrorists' behavior in all its aspects." Governments have a responsibility to maintain civic peace. **Because there are as many reasons for terrorism** as there are terrorists, says McHugh, the priority must be to "stop the behavior first." Then, "once peace is restored," McHugh concludes, "we can deal with underlying issues. We will very likely find that many of the justifications now offered for terrorism were only rationalizations intended to excuse it. But we need not waste our energies trying to change the opinions of terrorists about us and our aims. These people . . . have overvalued ideas that are inaccessible to argument and persuasion."4

In a speech before the United Nations on October 1, 2001, New York City Mayor Rudy Giuliani made essentially the same point. "This is not a time for further study or vague directives," he insisted, for the "evidence of terrorism's brutality and inhumanity, of its contempt for life and the concept of peace, is lying beneath the rubble of the World Trade Center less than two miles from where we meet today."5

Hannah Arendt, who was always suspicious of psychological categories, would have had little difficulty signing on with McHugh's and Giuliani's conclusions. According to Arendt, the fanatic is a person whose mind is on auto-pilot. Like the war criminal Adolf Eichmann, fanatics have lost the capacity for argument that entertains multiple possibilities. It is impossible to sit down at a table and hammer out some sort of "peace agreement" or "nonaggression pact" with terrorists. Because the goals of the fanatic cannot be achieved by compromise and negotiation, any such agreement would not be worth the paper it was written on.

The only defense against terrorism in the short run is interdiction and self-defense. The best defense against terrorism in the long run is building up secure civic infrastructures in many nations. That is why a number of policymakers have spoken about a contemporary version of the great Marshall Plan that rebuilt Europe after the catastrophe of World War II. The West's generous financial commitment is required, as is the continuing presence of foreign troops and peacekeepers in Afghanistan and, as the war against terrorism goes forward, in other sites as well. As an example of what is both expected and required, Afghan President Hamid Karzai has spoken repeatedly of the need for more troops to be sent to Afghanistan, "for as long as we need . . . to fight terrorism, to fight warlordism, to fight anarchy . . . until we have our own institutions—a national army, a national intelligence, national police and so on."6 He has consistently pled with the United States and its allies to remain engaged even after Al Qaeda has been rendered incapable of using Afghanistan as a base to mount attacks.

Those who condemn a continuing U.S. presence in Afghanistan as yet another intrusion by the "cowboy" Americans are compelled by their logic to ignore the pleadings of those on the ground, including the president of the country. The implication of calls for American withdrawal is that it is preferable to pull up stakes and leave a people beleaguered and vulnerable to terrorist exploitation. This strategy of abandonment, often justified as a way to respect a culture's "difference," is actually a counsel of indifference. To abandon beleaguered peoples is to give them less regard than they deserve as human beings. At the conclusion of World War II, with all its attendant horrors, Hannah Arendt insisted that human dignity needed a new guarantee. Providing that guarantee puts an enormous burden on those with power.