# 1nc

## 1

Your decision should answer the resolutional question: Is the enactment of topical action better than the status quo or a competitive option?

1. “Resolved” before a colon reflects a legislative forum

AOS 4

(5-12, “# 12, Punctuation – The Colon and Semicolon”, http://usawocc.army.mil/IMI/wg12.htm)

The colon introduces the following: a.  A list, but only after "as follows," "the following," or a noun for which the list is an appositive: Each scout will carry the following: (colon) meals for three days, a survival knife, and his sleeping bag. The company had four new officers: (colon) Bill Smith, Frank Tucker, Peter Fillmore, and Oliver Lewis. b.  A long quotation (one or more paragraphs): In The Killer Angels Michael Shaara wrote: (colon) You may find it a different story from the one you learned in school. There have been many versions of that battle [Gettysburg] and that war [the Civil War]. (The quote continues for two more paragraphs.) c.  A formal quotation or question: The President declared: (colon) "The only thing we have to fear is fear itself." The question is: (colon) what can we do about it? d.  A second independent clause which explains the first: Potter's motive is clear: (colon) he wants the assignment. e.  After the introduction of a business letter: Dear Sirs: (colon) Dear Madam: (colon) f.  The details following an announcement For sale: (colon) large lakeside cabin with dock g.  A *formal* resolution, after the word "resolved:"

Resolved: (colon) That this council petition the mayor.

2. “USFG should” means the debate is solely about a policy established by governmental means

Ericson 3

(Jon M., Dean Emeritus of the College of Liberal Arts – California Polytechnic U., et al., The Debater’s Guide, Third Edition, p. 4)

The Proposition of Policy: Urging Future Action In policy propositions, each topic contains certain key elements, although they have slightly different functions from comparable elements of value-oriented propositions. 1. An agent doing the acting ---“The United States” in “The United States should adopt a policy of free trade.” Like the object of evaluation in a proposition of value, the agent is the subject of the sentence. 2. The verb *should*—the first part of a verb phrase that urges action. 3. An action verb to follow *should* in the *should*-verb combination. For example, *should adopt* here **means to put a** program or **policy into action though governmental means**. 4. A specification of directions or a limitation of the action desired. The phrase *free trade*, for example, gives direction and limits to the topic, which would, for example, eliminate consideration of increasing tariffs, discussing diplomatic recognition, or discussing interstate commerce. Propositions of policy deal with future action. Nothing has yet occurred. The entire debate is about whether something ought to occur. What you agree to do, then, when you accept the *affirmative side* in such a debate is to offer sufficient and compelling reasons for an audience to perform the future action that you propose.

They claim to win the debate for reasons other than the desirability of topical action. That undermines preparation and clash. Changing the question now leaves one side unprepared, resulting in shallow, uneducational debate. Requiring debate on a communal topic forces argument development and develops persuasive skills critical to any political outcome.

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

Laura K. Donohue, Associate Professor of Law, Georgetown Law, 4/11/13, National Security Law Pedagogy and the Role of Simulations, http://jnslp.com/wp-content/uploads/2013/04/National-Security-Law-Pedagogy-and-the-Role-of-Simulations.pdf

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

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*, 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

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*, Thirteen Edition

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.

## 2

Plan destroys executive flexibility

Lorber ’13

Eric, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University Department of Political Science, “Executive Warmaking Authority and Offensive Cyber Operations: Can Existing Legislation Successfully Constrain Presidential Power?,” 15 U. Pa. J. Const. L. 961

Yet a surprising amount of uncertainty exists as to which - if any - domestic laws constrain the use of OCOs and how they fit into the congressional-executive balance. As policymakers, scholars, and journalists have lamented, a coherent policy framework governing the use of OCOs does not exist and many questions remain unanswered. n8 Would an attack [\*963] using cyber weapons trigger the requirements of the War Powers Resolution? n9 Would OCOs be subject to reporting requirements under the Intelligence Authorization Act? n10 Conversely, do cyber operations grant the executive branch another tool with which it can prosecute attacks but avoid reporting and responding to congressional inquiries? These questions are largely unanswered both because the rise of OCOs is a relatively recent phenomenon and because much of the information about U.S. technical capability in this field is highly classified. n11 Yet addressing these questions is increasingly important for two reasons. First, as states such as China, Israel, Russia, and the United States use these weapons now and likely will do so more in future conflicts, determining the domestic legal strictures governing their use would provide policymakers and military planners a better sense of how to operate in cyberspace. n12 Second, the possible employment of these tools adds yet another wrinkle to the battle between the executive and legislative branches over war-making authority. n13 In particular, if neither the War Powers Resolution nor the Intelligence Authorization Act governs OCOs, the executive may be allowed to employ U.S. military power in a manner largely unchecked by congressional authority. n14 As a result, the employment of these tools [\*964] implicates - and perhaps problematically shifts - the balance between the executive's commander-in-chief power n15 and Congress's war-making authority. n16 This Comment provides an initial answer to the question of whether current U.S. law can effectively govern the Executive's use of OCOs. n17 It explores the interaction between this new tool and the current statutory limits on presidential war-making authority, with a particular focus on whether the two current federal laws meant to restrict executive power in this field - the War Powers Resolution n18 and the Intelligence Authorization Act n19 - apply to a wide range of potential offensive cyber operations undertaken by the executive branch. Beyond suggesting that neither the War Powers Resolution nor the Intelligence Authorization Act can effectively regulate most types of offensive cyber operations, this Comment suggests that while marginally problematic for a proper balance of war-making power between the executive and legislative branches, this lack of oversight does not fundamentally shift the current alignment. It does argue, however, that - given this lack of regulatory oversight - **the President now has another powerful war-making tool to use at his discretion**. Finally, the Comment suggests that this lack of limitation may be positive in some ways, as laying down clear legal markers before having a developed understanding of these capabilities may problematically limit their effective use.

Spills-over to collapse prez powers

Klukowski 11 (Kenneth, Research Fellow, Liberty University School of Law; Fellow and Senior Legal Analyst, American Civil Rights Union; National-Bestselling Author. George Mason University School of Law, J.D. 2008; University of Notre Dame, B.B.A. 1998, “MAKING EXECUTIVE PRIVILEGE WORK: A MULTI-FACTOR TEST IN AN AGE OF CZARS AND CONGRESSIONAL OVERSIGHT” 2011, 59 Clev. St. L. Rev. 31)

VI. CONCLUSION

Most controversies between Congress and the White House over information are decided more by politics than by law, and so a settlement is usually reached favoring the party with the public wind to its back. n348 **Questions of law should not be decided in that fashion**. Therefore, the reach and scope of executive privilege should be settled by the courts in such situations, so that the President's power is not impaired whenever the political wind is in the President's face and at his opponents' backs, or the President is inappropriately shielded when political tides flow in his favor.

While the best outcome in any interbranch dispute is the political branches reaching a settlement, "such compromise may not always be available, or even desirable." n349 It is not desirable where it sets a precedent **that** degrades **one of the three branches of government. If one branch of government demands something to which it is not constitutionally entitled and that the Constitution has fully vested in a coequal branch, the vested branch should not be required to negotiate on the question**. Negotiation usually involves compromise. This negotiation would often result in one branch needing to cede to the other**,** encouraging additional unconstitutional demands in the future. Though this may perhaps be a quicker route to a resolution, it disrupts the constitutional balance in government. As the Supreme Court has recently explained, "'convenience and efficiency are not the primary objectives--or the hallmarks--of democratic government.'" n350

President Reagan declared that "you aren't President; you are temporarily custodian of an institution, the Presidency. And you don't have any right to do away with any of the prerogatives of that institution, and one of those is executive privilege. And **this is what was being attacked** by the Congress." n351 Thus, any White House has the obligation to fight to protect executive privilege, and the courts should draw the line to preserve that constitutional prerogative. Likewise, there are times when it is the President who is refusing to give Congress its due under the Constitution, where Congress must assert its prerogatives for future generations. Conversely, where confidentiality is not warranted, courts must ensure public disclosure and accountability.

Extinction

Paul 98 (Joel, Professor, University of Connecticut School of Law, “The Geopolitical Constitution: Executive Expediency and Executive Agreements” July, 1998, 86 Calif. L. Rev. 671) \*\*Footnote 137-139 added

Whatever the complexity of causes that led to the Cold War - ideology, economics, power politics, Stalin's personality, Soviet intrigue, or American ineptitude - the tension of the bipolar order seemed real, immutable, and threatening to the U.S. public. n135 The broad consensus of U.S. leadership held that **the immediacy of the nuclear threat**, the need for covert operations and intelligence gathering, and the complexity of U.S. relations with both democracies and dictatorships **made it impractical to engage in congressional debate and oversight of foreign policy-making**. n136 The eighteenth-century Constitution did not permit a rapid response to twentieth-century foreign aggression. The reality of transcontinental ballistic missiles collapsed the real time for decision-making to a matter of minutes. **Faced with the apparent choice between the** risk of nuclear annihilation **or amending the constitutional process for policy-making, the preference for a powerful executive was clear**. n137 Early in the Cold War one skeptic of executive power, C.C. Rossiter, acknowledged that the steady increase in executive power is unquestionably a cause for worry, but so, too, is the steady increase in the magnitude and complexity of the problems the president has been called upon by the American people to solve in their behalf. They still have more to fear from the ravages of depression, rebellion, and especially atomic war than they do from whatever decisive actions may issue from the White House in an attempt to put any such future crises to rout....It is not too much to say that **the destiny of this nation in the Atomic Age will rest in the** [\*700] **capacity of the Presidency** as an institution of constitutional dictatorship. n138 n137. President Truman warned that we live in an age when hostilities begin without polite exchanges of diplomatic notes. There are no longer sharp distinctions between combatants and noncombatants, between military targets and the sanctuary of civilian areas. Nor can we separate the economic facts from the problems of defense and security. [The] President, who is Comander in Chief and who represents the interests of all the people, must be able to act at all times to meet any sudden threat to the nation's security. 2 Harry S. Truman, Memoirs: Years of Trial and Hope 478 (1956) (commenting on the Court's decision in the Steel Seizure Case). n138. Rossiter, supra note 54, at 308-09. n139. President Truman warned that **upon the functioning of a strong executive "depends the** survival of each of us **and also on that depends the survival of the free world**." The Powers of the Presidency 114 (Robert S. Hirschfield ed., 1968). See also, e.g., Speech by John F. Kennedy delivered to the National Press Club (Jan. 14, 1960), in Hirschfield, supra, at 129-31; Congress, the President, and the War Powers: Hearings Before the Subcomm. on Nat'l Sec. Policy and Scientific Developments of the House Comm. on Foreign Affairs, 91st Cong. 12-13 (1970) (statement of McGeorge Bundy, President, Ford Foundation); Congressional Oversight of Executive Agreements: Hearings on S. 3475 Before the Subcomm. on Separation of Powers of the Senate Comm. of the Judiciary, 92d Cong. 237-40 (1972) (statement of Nicholas Katzenbach, Former Attorney General and Former Undersecretary of State).

Solves terror

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.

Extinction

Hellman 8 (Martin E. Hellman, emeritus prof of engineering @ Stanford, “Risk Analysis of Nuclear Deterrence” SPRING 2008 THE BENT OF TAU BETA PI, <http://www.nuclearrisk.org/paper.pdf>)

The threat of nuclear terrorism looms much larger in the public’s mind than the threat of a full-scale nuclear war, yet this article focuses primarily on the latter. An explanation is therefore in order before proceeding. A terrorist attack involving a nuclear weapon would be a catastrophe of immense proportions: “A 10-kiloton bomb detonated at Grand Central Station on a typical work day would likely kill some half a million people, and inflict over a trillion dollars in direct economic damage. America and its way of life would be changed forever.” [Bunn 2003, pages viii-ix]. The likelihood of such an attack is also significant. Former Secretary of Defense William Perry has estimated the chance of a nuclear terrorist incident within the next decade to be roughly 50 percent [Bunn 2007, page 15]. David Albright, a former weapons inspector in Iraq, estimates those odds at less than one percent, but notes, “We would never accept a situation where the chance of a major nuclear accident like Chernobyl would be anywhere near 1% .... A nuclear terrorism attack is a low-probability event, but we can’t live in a world where it’s anything but extremely low-probability.” [Hegland 2005]. In a survey of 85 national security experts, Senator Richard Lugar found a median estimate of 20 percent for the “probability of an attack involving a nuclear explosion occurring somewhere in the world in the next 10 years,” with 79 percent of the respondents believing “it more likely to be carried out by terrorists” than by a government [Lugar 2005, pp. 14-15]. I support increased efforts to reduce the threat of nuclear terrorism, but that is not inconsistent with the approach of this article. Because terrorism is one of the potential trigger mechanisms for a full-scale nuclear war, the risk analyses proposed herein will include estimating the risk of nuclear terrorism as one component of the overall risk. If that risk, the overall risk, or both are found to be unacceptable, then the proposed remedies would be directed to reduce which- ever risk(s) warrant attention. Similar remarks apply to a number of other threats (e.g., nuclear war between the U.S. and China over Taiwan). his article would be incomplete if it only dealt with the threat of nuclear terrorism and neglected the threat of full- scale nuclear war. If both risks are unacceptable, an effort to reduce only the terrorist component would leave humanity in great peril. In fact, society’s almost total neglect of the threat of full-scale nuclear war makes studying that risk all the more important. The cosT of World War iii The danger associated with nuclear deterrence depends on both the cost of a failure and the failure rate.3 This section explores the cost of a failure of nuclear deterrence, and the next section is concerned with the failure rate. While other definitions are possible, this article defines a failure of deterrence to mean a full-scale exchange of all nuclear weapons available to the U.S. and Russia, an event that will be termed World War III. Approximately 20 million people died as a result of the first World War. World War II’s fatalities were double or triple that number—chaos prevented a more precise deter- mination. In both cases humanity recovered, and the world today bears few scars that attest to the horror of those two wars. Many people therefore implicitly believe that a third World War would be horrible but survivable, an extrapola- tion of the effects of the first two global wars. In that view, World War III, while horrible, is something that humanity may just have to face and from which it will then have to recover. In contrast, some of those most qualified to assess the situation hold a very different view. In a 1961 speech to a joint session of the Philippine Con- gress, General Douglas MacArthur, stated, “Global war has become a Frankenstein to destroy both sides. … If you lose, you are annihilated. If you win, you stand only to lose. No longer does it possess even the chance of the winner of a duel. It contains now only the germs of double suicide.” Former Secretary of Defense Robert McNamara ex- pressed a similar view: “If deterrence fails and conflict develops, the present U.S. and NATO strategy carries with it a high risk that Western civilization will be destroyed” [McNamara 1986, page 6]. More recently, George Shultz, William Perry, Henry Kissinger, and Sam Nunn4 echoed those concerns when they quoted President Reagan’s belief that nuclear weapons were “totally irrational, totally inhu- mane, good for nothing but killing, possibly destructive of life on earth and civilization.” [Shultz 2007] Official studies, while couched in less emotional terms, still convey the horrendous toll that World War III would exact: “The resulting deaths would be far beyond any precedent. Executive branch calculations show a range of U.S. deaths from 35 to 77 percent (i.e., 79-160 million dead) … a change in targeting could kill somewhere between 20 million and 30 million additional people on each side .... These calculations reflect only deaths during the first 30 days. Additional millions would be injured, and many would eventually die from lack of adequate medical care … millions of people might starve or freeze during the follow- ing winter, but it is not possible to estimate how many. … further millions … might eventually die of latent radiation effects.” [OTA 1979, page 8] This OTA report also noted the possibility of serious ecological damage [OTA 1979, page 9], a concern that as- sumed a new potentiality when the TTAPS report [TTAPS 1983] proposed that the ash and dust from so many nearly simultaneous nuclear explosions and their resultant fire- storms could usher in a nuclear winter that might erase homo sapiens from the face of the earth, much as many scientists now believe the K-T Extinction that wiped out the dinosaurs resulted from an impact winter caused by ash and dust from a large asteroid or comet striking Earth. The TTAPS report produced a heated debate, and there is still no scientific consensus on whether a nuclear winter would follow a full-scale nuclear war. Recent work [Robock 2007, Toon 2007] suggests that even a limited nuclear exchange or one between newer nuclear-weapon states, such as India and Pakistan, could have devastating long-lasting climatic consequences due to the large volumes of smoke that would be generated by fires in modern megacities. While it is uncertain how destructive World War III would be, prudence dictates that we apply the same engi- neering conservatism that saved the Golden Gate Bridge from collapsing on its 50th anniversary and assume that preventing World War III is a necessity—not an option.

## 3

The aff’s overwhelmingly negative construction of acceleration dooms it to endless criticism – it’s constructed as such an insurmountable evil that it becomes a hegemonic block to their own politics – destroys agency and turns case

Vostal ’13 (Filip, Ph.d, Institute of Sociological Studies, University of Bistol, “Thematizing speed: Between critical theory and cultural analysis,” European Journal of Social Theory 1–20, 2013)

For Rosa, acceleration is not simply a discursive construction but an over-determined social phenomenon with political and ethical implications. However, he builds on and extends the ascendant discursive trajectory characteristic of independent commentaries and critical literature. In his attempt to develop a critical theory of acceleration, he outlines a promising re-energized version of the Frankfurt School-inspired critique of late modern/capitalist temporality. This grounding, however, **precludes him from seeing acceleration as anything other than a pathology and symptom of capitalist modernity**. Despite the originality and rigour of the concept of social acceleration, which is in many respects ground-breaking, **there are problematic aspects**. Rosa and Scheuerman (2009) rightly claim that we have to understand acceleration in its unevenness, saying that not all social processes, populations, territories, segments and spheres are affected equally; in fact, some of them may not be affected at all. However, elsewhere Rosa seems to suggest the square presence of acceleration in modern societies when he talks about ‘acceleration as a new form of totalitarianism’ (2010a: 61–3). This contradiction conveys the main merit as well as the main problem of his account. On the one hand, acceleration is not levelled nor a constant social occurrence; on the other, following the discursive tendency established by popular science writings and other critical literature, and following the intellectual commitments of the Frankfurt School, Rosa argues for acceleration as an **inescapable, unavoidable and omnipresent condition negatively affecting almost all spheres and layers of societ**y, including our collective and personal realities and capacities. Building on this premise, Rosa’s critical theory of acceleration, albeit minimally, loses its forcibility and potential in the light of unchecked dilemmas – similar to the critics of speed, the issue of individual perception, processing and negotiation of acceleration **remains unexplored and somewhat neglected**. In other words, **Rosa couches acceleration as new form of social domination – an evil force – associated with the dynamics of late modernity.** This tendency is apparent in the way in which he treats deceleration. Slowdown in Rosa’s conception always succumbs to acceleration dynamics: it can be explained as a consequence of speed-up, a functional necessity of speed-up or a reactionary drive against it (2010a: 33–41). Even acceleration’s antipode is thus a fully subordinate offshoot of it.

Another problematic aspect of Rosa’s account is that he somewhat does not distinguish between corporeal and intended experience of speed and the oppressive need for speed associated with time-pressure; something Tomlinson calls, ‘sedentary speed’ (2007a: 3; see also Hassan, 2003: 2). The former is connected with physiognomic properties of speed experience, including thrill and excitement (Balint, 1959; Duffy, 2009; Wollen, 2002). In terms of the latter, it is a type of speed experience typically associated with the rat-race metaphor that appears to define the late modern experience – especially when it is further tied to the transformation of the workplace and/or to increasing embeddedness of communication technologies, such as smartphones (see Agger, 2011), in our daily lives. Although sedentary speed does not principally exclude the corporeal dimension, it has more to do with the very embodied experience and a specific contemporaneous mood or presentist mindset dramatically apparent with time-famine, hurry sickness and even related time-management/counselling industries. In other words, we can experience sedentary speed ‘without even stirring from our office desk’ (Tomlinson, 2007a: 3) yet the conveniences and opportunities resulting from conscious and carefully calculated speeding-up, either in a spatial or figurative sense, are rendered as relics of an early-modern mindset.

Rosa has certainly developed a benchmark study that accounts for one of the most systematic attempts to bring the analysis of speed and acceleration into debates within critical social theory. Arguably, however, when acceleration is couched as an irreducibly negative object of analysis, a degree of causality and essentialism potentially **overshadows the question of agency** as well as speed’s complicated historical and cultural dimensions – including positive appreciations (see Kern, 2004: 109ff). As Wagner (1994: xii, 8) notes, the history of modernity is characterized by the double nature of liberty and discipline. This ambiguity arguably holds also for the social experience of speed as modernity’s particular manifestation. John Tomlinson’s account that I will now turn to can be considered not only as a useful corrective of some problematic features of the critical social theory of speed, but also as an account that pays specific attention to the ambiguity and ambivalence of speed in modernity.

Peddling the apocalyptic threats of speed is crying wolf par excellence – 2014 did not reinvent the politics of speed – they just numb intellectualism and the resulting apathy is the root cause of their impacts

Derrida ’84 (Jacques, “No Apocalypse, Not Now (Full Speed Ahead, Seven Missiles, Seven Missives),” Diacritics, Vol. 14, No. 2, Nuclear Criticism (Summer, 1984), pp. 20-31)

Naturally, I don't have time to demonstrate this. I am offering it, therefore, as a hasty conclusion, a precipitous assertion, a belief, an opinion-based argument, a doctrine or a dogmatic weapon. But I was determined to begin with it. I wanted to begin as quickly as possible with a warning in the form of a dissuasion: **watch out, don't go too fast.** There is perhaps no invention, no radically new predicate **in the situation known as "the nuclear age."** Of all the dimensions of such an "age" we may always say one thing: it is neither the first time nor the last. The historian's critical vigilance can always help us verify that repetitiveness; and that historian's patience, that lucidity of memory must always shed their light on "nuclear criticism," must oblige it to decelerate, **dissuade it from rushing to a conclusion on the subject of speed itself.** But this dissuasion and deceleration I am urging carry their own risks: the critical zeal that leads us to recognize precedents, continuities, and repetitions at every turn can **make us look like** suicidal sleepwalkers**, blind and deaf alongside the unheard-of**; it could make us stand blind and deaf alongside that which cuts through the assimilating resemblance of discourses (for example of the apocalyptic or bimillenarist type), through the analogy of techno-military situations, strategic arrangements, with all their wagers, their lastresort calculations, **on the "brink**," their use of **chance and risk factors**, their mimetic resource to upping the ante, and so on - blind and deaf, then, **alongside what would be absolutely unique;** and it, this critical zeal, would seek in the stockpile of history (in short, in history itself, which in this case would have this blinding search as its function) the wherewithal to neutralize invention, to translate the unknown into a known, to metaphorize, allegorize, domesticate the terror, to circumvent (with the help of circumlocutions: turns of phrase, tropes and strophes) **the inescapable catastrophe, the undeviating precipitation toward a remainderless cataclysm.** The critical slowdown may thus be as critical as the critical acceleration. One may still die after having spent one's life recognizing, as a lucid historian, to what extent all that was not new, telling oneself that the inventors of the nuclear age or of nuclear criticism did not invent the wheel, or, as we say in French, "invent gunpowder." That's the way one always dies, moreover, and the death of what is still now and then called humanity might well not escape the rule.

Reason number two. What is the right speed, then? Given our inability to provide a good answer for that question, we at least have to recognize gratefully that the nuclear age allows us to think through this aporia of speed (i.e., the need to move both slowly and quickly); it allows us to confront our predicament starting from the limit constituted by the absolute acceleration in which the uniqueness of an ultimate event, of a final collision or collusion, the temporalities called subjective and objective, phenomenological and intraworldly, authentic and inauthentic, etc., would end up being merged into one another. But, wishing to address these questions to the participants of a colloquium on "nuclear criticism," I am also wondering at what speed we have to deal with these aporias: with what rhetoric, what strategy of implicit connection, what ruses of potentialization and of ellipsis, what weapons of irony? The "nuclear age" makes for a certain type of colloquium, with its particular technology of information, diffusion and storage, its rhythm of speech, its demonstration procedures, and thus its arguments and its armaments, its modes of persuasion or intimidation.

Reject their conception of acceleration – we should pursue politics in spite of speed affirming the power of the citizen to reclaim the political

McIvor ’11 (David, Kettering Foundation, “The Politics of Speed: Connolly, Wolin, and the Prospects for Democratic Citizenship in an Accelerated Polity,” Polity Vol. 43 No. 1)

In order to develop these habits, Wolin wants to direct attention away from the state and towards localities with their particularities, peculiarities, and irregularities. On Wolin’s reading, national politics is little more than a spectacle, and the citizen’s role within **that spectacle is often only as “a rooter limited to choosing sides.”88** Localities, on the other hand, remain venues that promise robust participation. As individuals slowly develop the habits related to participation— interpreting and coming to know one’s environment and its other inhabitants, its multiple histories and overlapping concerns—their very being changes. “Politicalness” marks our capacity “to develop . . . into beings who know and value what it means to participate in and be responsible for the care and improvement of our common and collective life.”89 By nurturing this politicalness we begin to feel a tug of loyalty towards a common reality that had not heretofore existed. Wolin, in describing the early stages of the Free Speech Movement, referred to this experience as the “revival of a sense of shared destiny, of some common fate which can bind us into a people we have never been.”90 Of course, these assemblages are subject to the same “thousand natural shocks” to which all flesh is heir. Publics rise and fall; democratic moments remain momentary. Yet those who are honed by these experiences and who are dedicated to their recovery become what Wolin calls a “multiple civic self . . . **one who is required to act the citizen in diverse settings:** national, state, city or town, neighborhood, and voluntary association.”91 This is “perhaps the most complex conception of citizenship ever devised” yet “we have no coherent conception of it.”91 The multiple civic self is not modeled along republican or representative lines, which reduce participation to occasional ratification or refusal, and which filter popular power through elite-managed institutions. Nor, however, is it based on the radical democratic conception of citizenship as direct sharing in power. The complexities of what Wolin calls “the megastate” and the sheer size of the United States exceed what an Athens-styled radical democracy could manage. The multiple civic self is one capable of participating not simply in his/ her locality but “intellectually and passionately in the controversies surrounding the megastate” in order to “**reclaim” public space and insist upon “widened debate.”**92 Wolin is not (only) a localist. Rather, he thinks that the **skills** and habits best acquired by consistent participation in our particular localities lay the groundwork for a form of citizenship attuned to the plural layers of political action and struggle in late-modern America. Moreover, the multiple civic self promotes the dispersal of power between local, state, and national bodies.93 Such diffusion re-establishes a separation of powers that forces slow-time negotiations upon the impatient megastate.94 The slowly developed habits of participation make possible a more robust form of democratic citizenship and, perhaps, fugitive democratic moments. These moments, in turn, can help to slow the world down. Political theorists and social actors inspired by Wolin’s example and worried about the inegalitarian consequences of social acceleration should look to start from his (so far underdeveloped) idea of the multiple civic self. Instead of refurbishing federal institutions or romanticizing the consequences of speed, we ought to attend primarily to what Wolin calls the “recurrent aspiration” of democracy: “to find room in which people can join freely with others to take responsibility for solving their common problems and **thereby sharing the modest fate that is the lot of all mortals.**”95 By pursuing solutions to mutual problems through concerted action, we as citizens can hone the craft of democratic participation—broadening our notions of self and learning to honor the differences we encounter within a shared space.96

## Case

Networks are safe—nobody has the means

Gray 13

COLIN S. GRAY is Professor of International Politics and Strategic Studies at the University of Reading, England, worked at the International Institute for Strategic Studies and at the Hudson Institute before founding the National Institute for Public Policy, Author of 25 books, Strategic Studies Institute, April 2013, "MAKING STRATEGIC SENSE OF CYBER POWER: WHY THE SKY IS NOT FALLING", http://www.strategicstudiesinstitute.army.mil/pdffiles/PUB1147.pdf

It is one thing to be able to be an electronic nuisance, to annoy, disrupt, and perhaps delay. But it is quite another to be capable of inflicting real persisting harm on the fighting power of an enemy. Critically important military computer networks are, of course, accessible neither to the inspired amateur outsider, nor to the malignant political enemy. Easy passing reference to a hypothetical “cyber Pearl Harbor” reflects both poor history and ignorance of contemporary military common sense. Critical potential military (and other) targets for cyber attack are extremely hard to access and influence (I believe and certainly hope), and the technical knowledge, skills, and effort required to do serious harm to national security is forbiddingly high. This is not to claim, foolishly, that cyber means absolutely could not secure near-catastrophic results. However, it is to say that such a scenario is extremely improbable. Cyber defense is advancing all the time, as is cyber offense, of course. But so discretionary in vital detail can one be in the making of cyberspace, that confidence—real confidence—in cyber attack could not plausibly be high. It should be noted that I am confining this particular discussion to what rather idly tends to be called cyber war. In political and strategic practice, it is unlikely that war would or, more importantly, ever could be restricted to the EMS. Somewhat rhetorically, one should pose the question: Is it likely (almost anything, strictly, is possible) that cyber war with the potential to inflict catastrophic damage would be allowed to stand unsupported in and by action in the other four geographical domains of war? I believe not.

Air gapping solves

Manzo 13

Vincent Manzo is a Fellow in the Defense and National Security Group at the Center for Strategic and International Studies, The National Interest, April 3, 2013, "A Cyber-Survivable Military", http://nationalinterest.org/commentary/cyber-survivable-military-8296

Whether the threat warrants this tradeoff is unclear. The DSB’s analysis raises questions about whether a disarming cyber strike, synchronized with other combat operations just as a war erupts, is feasible. An adversary would need to infiltrate and study secure U.S. military networks as well as the communication, intelligence, and weapons systems they connect and operate. Then the attacker must customize code to manipulate them, and for air-gapped targets, covertly gain physical access.

Even if adversaries succeed in planting cyber weapons throughout U.S. systems, their goal would be to affect the targets only when a war is imminent, so they would not have the luxury of attacking immediately. Weeks, months or years could pass before a conflict, during which time U.S. officials might detect and remove the virus, upgrade to more effective security software, or reconfigure their network architectures. Ensuring that deployed cyber weapons are poised for wars that will start at an unspecified time in the future would require consistent surveillance.

Nukes aren’t vulnerable

Green 2

The Washington Monthly. Washington: Nov 2002. Vol. 34, Iss. 11; pg. 8, 6 pgs

JOSHUA GREEN is an editor of the Washington Monthly.

Serious effort and plain good fortune have combined to bring this about. Take nuclear weapons. The biggest fallacy about their vulnerability, promoted in action thrillers like WarGames, is that they're designed for remote operation. "[The movie] is premised on the assumption that there's a modem bank hanging on the side of the computer that controls the missiles," says Martin Libicki, a defense analyst at the RAND Corporation. "I assure you, there isn't." Rather, nuclear weapons and other sensitive military systems enjoy the most basic form of Internet security: they're "air-gapped," meaning that they're not physically connected to the Internet and are therefore inaccessible to outside hackers. (Nuclear weapons also contain "permissive action links," mechanisms to prevent weapons from being armed without inputting codes carried by the president.) A retired military official was somewhat indignant at the mere suggestion: `As a general principle, we've been looking at this thing for 20 years. What cave have you been living in if you haven't considered this [threat]?"

Reject their ev - it's exaggerated and financially biased

Rid 13

Thomas Rid, Reader in War Studies at King's College London, His most recent book is Cyber War Will Not Take Place, also a non-resident fellow at the Center for Transatlantic Relations in the School for Advanced International Studies, Johns Hopkins University, PhD in political science from Humboldt University of Berlin, OC Register, March 15, 2013, "Thomas Rid: Hype, fear-mongering hurts cyberwar", http://www.ocregister.com/articles/systems-499977-cyber-control.html

LONDON – The White House likes a bit of threat. In his State of the Union address, Barack Obama wanted to nudge Congress yet again into passing meaningful legislation. The president emphasized that America's enemies are "seeking the ability to sabotage our power grid, our financial institutions and our air traffic control systems." After two failed attempts to pass a cybersecurity act in the past two years, he added swiftly: "We cannot look back years from now and wonder why we did nothing in the face of real threats to our security and our economy."

Fair enough. A bit of threat to prompt needed action is one thing. Fear-mongering is something else: counterproductive. Yet too many a participant in the cybersecurity debate reckon that puffery pays off.

The Pentagon, no doubt, is the master of razzmatazz. Leon Panetta set the tone by warning again and again of an impending "cyber Pearl Harbor." Just before he left the Pentagon, the Defense Science Board delivered a remarkable report, "Resilient Military Systems and the Advanced Cyber Threat." The paper seemed obsessed with making yet more drastic historical comparisons: "The cyber threat is serious," the task force wrote, "with potential consequences similar to the nuclear threat of the Cold War." The manifestations of an all-out nuclear war would be different from cyberattack, the Pentagon scientists helpfully acknowledged. But then they added, gravely, that "in the end, the existential impact on the United States is the same."A reminder is in order: The world has yet to witness a single casualty, let alone fatality, as a result of a computer attack. Such statements are a plain insult to survivors of Hiroshima. After all, a bit of fear helps to claim – or keep – scarce resources when austerity and cutting seems out-of-control. The report recommended allocating the stout sum of $2.5 billion for its top two priorities alone, protecting nuclear weapons against cyberattacks and determining the mix of weapons necessary to punish all-out cyber-aggressors.

Then there are private computer security companies. Such firms, naturally, are keen to pocket some of the government's money earmarked for cybersecurity. And hype is the means to that end. Which leads to the next point: The media want to sell copy through threat inflation. "In Cyberspace, New Cold War," the headline writers at the Times intoned in late February. "The U.S. is not ready for a cyberwar," shrieked the Washington Post earlier this week. Instead of calling out the above-mentioned Pentagon report, the paper actually published two supportive articles on it and pointed out that a major offensive cyber capability now seemed essential "in a world awash in cyber-espionage, theft and disruption."

The Post should have reminded its readers that the only military-style cyberattack that has actually created physical damage – Stuxnet – was actually executed by the United States government.

Finally, the intelligence community tags along with the hype because the NSA and CIA are still traumatized by missing 9/11. Missing a "cyber 9/11" would be truly catastrophic for America's spies, so erring on the side of caution seems the rational choice.

This means that the quality of the public debate suffers, as experts as well as journalists have no choice but to rely on industry reports of sometimes questionable quality or anonymous informants whose veracity is hard to assess.

Their theory can’t describe military technology

Thommesen, 3

(PhD Student-Center, University of Denmark, “Virilio: From Space to Time, From Reality to Image,” http://www.ephemerajournal.org/contribution/virilio-space-time-reality-image)

It seems appropriate to close this review by returning once more to the issue of technology and warfare, which has resumed actuality with two recent hi-tech wars. It will also provide an opportunity to explain his method. Leaving aside the idea of society being shaped by military logic, one might question whether **Virilio exaggerates the significance of technology in warfare**, that is, whether he accepts at face value the picture presented by the proponents of televised high-precision missile systems. Without being an expert in military history, I seem to remember that those bombs were never quite as smart and precise as announced by military spokesmen. And it has also been argued that at least the more recent war in Afghanistan was not won from the air but depended quite largely on ground personnel (at a mere 'relative speed'4). Furthermore, the example of automatic defence systems also seems to show that he echoes the optimistic arguments about the potential for Artificial Intelligence. He accepts that this degree of automatization - not only in warfare, but also **as a general tendency** - is a realistic vision, **while the fact is that research in AI has failed to deliver for decades**. (On other hand it is a relief that he does not simply argue that AI is impossible due to phenomenological insights). Thus, while Virilio offers a critical antidote to the choir of IT evangelists, i.e. the idea of us all getting together in the global village (which he explicitly criticizes), he may be criticized for a similar tendency to **attribute too much importance to the isolated factor of Technology**. And perhaps this critique could be extended to his method in general, that is, dying to read signs of the future in various contemporary events without resorting to any elaborate empirical study, picking out convenient examples without over-zealous attention to then actual representativity - a method Brugger and Petersen (1994) label 'archaeology of the future\*. On the other hand, those may be exactly the conditions and risks involved in trying to grasp the future: the intention is to identify future tendencies rather than merely describe contemporary reality. Although the critique of his empirical 'method' should not be completely silenced, neither should critique silence the observations of an analytical and somewhat cynical 'visionary'. I certainly find many of his ideas and arguments inspiring for further study, without having to subscribe to all of his theses.

Their trajectory of technology arguments are wrong

Kellner, 99

(Douglas, George F. Kneller Chair in the Philosophy of Education, UCLA – “Virilio, War, and Technology: Some Critical Reflections," Theory, Culture and Society, Vol. 16(5-6), 1999: 103-125, http://pages.gseis.ucla.edu/faculty/kellner/Illumina%20Folder/kell29.htm)

In \_Speed and Politics\_ (1986 [1977]), Virilio undertakes his first sustained attempt to delineate the importance of accelerated speed, of the impact of technologies of motion, of types of mobility and their effects in the contemporary era. Subtitled "Essay on Dromology," Virilio proposes what he calls a "dromomatics" which interrogates the role of speed in history and its important functions in urban and social life, warfare, the economy, transportation and communication, and other aspects of everyday life. "Dromology" comes from the Latin term, dromos, signifying race, and dromology studies how innovations in speed influence social and political life. The "dromocratic revolution" for Virilio involves means of fabricating speed with the steam engine, then the combustion engine, and in our day nuclear energy and instantaneous forms of warfare and communication. Virilio was initially an urbanist who suggests that the city is a dwelling place organized by channels of communication and transportation, penetrated by roadways, canals, coastlines, railroads, and now airports. Each crossing has its speed limits, its regulations, and its systematic enclosure and spaces with in a system of societal organization. The city itself is a conglomeration of these roads, a stopover for travel, and a system of "habitable circulation" (Virilio 1986: 6). City life unfolds in the spectacle of the street with its progressions and movements, its institutions and events, mobilizing and moving flows of traffic and people. Likewise, politics unfolds in the streets and urban sites of demonstration, debate, revolt, and revolutionary insurrection. Cyberspace, Virilio claims, supplies another space without the usual coordinates of space and time that also produces a disorienting and disembodying form of experience in which communication and interaction takes place instantaneously in a new global time, overcoming boundaries of time and space. It is a disembodied space with no fixed coordinates in which one loses anchorage in one's body, nature, and social community. It is thus for Virilio a dematerialized and abstract realm in which cybernauts can become lost in space and divorced from their bodies and social world. In addition, Virilio analyzes and denounces what he calls "a pernicious industrialization of vision" (1997b: 89) and what he fears is a displacement of vision by machines. Virilio is afraid that increasingly visions machines are seeing for us, ranging from cameras to video to satellite surveillance to nanotechnology which probes the body (and next the mind?). For Virilio, we are increasingly subjected to bombardment by images and information and thus by "a discreet pollution of our vision of the world through the sundry tools of communication" (1997b: 96). Moreover, he fears, media like cinema and television train and constrain vision, leading to degradation of vision and experience: "If, according to Kafka, cinema means pulling a uniform over your eyes, television means pulling on a straitjacket, stepping up an eye training regime that leads to eye disease, just as the acoustic intensity of the walkman ends in irreversible lesions in the inner ear" (1997b: 97). Shrilly technophobic and consistently hysterical, Virilio demonizes modern information and communication technologies, suggesting that they are do irreparable damage to the human being. Sometimes over-the-top rhetorical, as in the passage just cited, Virilio's 1990's comments on new information technology suggest that he is deploying the same model and methods to analyze the new technologies that he used for war technology. He speaks regularly of an "information bomb" that is set to explode (1995a, 1995b, 1995c, 1997a, and 1997b), evoking the specter of "a choking of the senses, a loss of control of reason of sorts" in a flood of information and attendant disinformation. Deploying his earlier argument concerning technology and the accident, Virilio argues that the information superhighway is just waiting for a major accident to happen (1995a and 1995b; 1997a and 1997b), which will be a new kind of global accident, effecting the whole globe, "the accidents of accidents" (Epicurus): "The stock market collapse is merely a slight prefiguration of it. Nobody has seen this generalized accident yet. But then watch out as you hear talk about the 'financial bubble' in the economy: a very significant metaphor is used here, and it conjures up visions of some kind of cloud, reminding us of other clouds just as frightening as those of Chernobyl..." (1995b). In a 1995 interview with German media theorist Friedrich Kittler (1995c), titled "The information Bomb," Virilio draws an analogy between the nuclear bomb and the "information bomb," talking about the dangers of "fallout" and "radiation" from both. In contrast to the more dialectical Kittler, Virilio comes off as exceedingly technophobic in this exchange and illicitly, in my view, deploys an amalgam of military and religious metaphors to characterize the world of the new technologies. In one exchange, Virilio claims that "a caste of technology-monks is coming up in our times," and "there exist monasteries (of sorts whose goal it is to pave the way for a (kind of) 'civilization' that has nothing to do with civilization as we remember it." These monks are avatars of a "technological fundamentalism" and "information monotheism," a world-view that replaces previous humanist and religious worldviews, displacing man and god in favor of technology. [This world-view] comes into being in a totally independent manner from any controversy. It is the outcome of an intelligence without reflection or past. And with it goes what I think as the greatest danger (of all), the derailment, the sliding down into the utopian, into a future without humanity. And that is what worries me. I believe that violence, nay hyperviolence, springs out of this fundamentalism. Virilio goes on to claim that fallout from the "information bomb" will be as lethal for the socius as nuclear bombs, destroying social memory, relations, traditions, and community with an instantaneous overload of information. Thus, the technological "monks" who promote the information revolution are guilty of "sins in technical fundamentalism, of which we witness the consequences, the evil effects, today." One wonders, however, if the discourse of "sin," "evil," and "fundamentalism" is appropriate to characterize the effects and uses of new technologies which are, contrary to Virilio, hotly and widely debated, hardly monolithic, and, in my view, highly ambiguous, mixing what might be appraised as positive and negative features and effects. Yet Virilio is probably correct that the dominant discourse is largely positive and uncritical and that we should be aware of negative aspects and costs of the new technologies and debate their construction, structure, uses, and effects. Virilio is also right that they constitute at least a threat to community and social relations, as previously established, though one could argue that the new communities and social relations generated by use of the new technologies have positive dimensions as well as potentially negative ones. Virilio notes as well the ways that new technologies are penetrating the human body and psyche, taking over previous biological, perceptual, and creative functions of human beings, making humans appendages of a technological apparatus. He writes: "I am a materialist of the body which means that the body is the basis of all my work" (Virilio 1997a: 47). In his early work, Virilio spoke of the body as "a vector of speed" and "metabolic vehicle" in which increased speed and velocity overwhelmed the human sensorium and empowered controllers of technologies of speed over other humans (1986). In more recent work, he has described the body as a planet, as a unique center around which objects gravitate, and criticizes increasing derealization of the body in cyberspace and virtual technologies (1997a and 1997b). Virilio is thus in part a materialist humanist and phenomenologist who is disturbed by the invasion of the human body by technology and the substitution of the technological for the human and lived experience. We noted above Virilio's disagreement with Baudrillard over the issue of simulation which Virilio prefers to interpret in terms of substitution of one mode of experience or representation for another. Virilio's project is to describe the losses, the disappearances, of the substitution, describing now technology displaces human faculties and experience, subjecting individuals to ever more powerful modes of technological domination and control. Thus, Virilio describes the effects of new technologies in terms of an explosion of information as lethal as nuclear explosion and warns of the ubiquity of new types of accident that will require new modes of deterrence and dissuasion. He also envisages progressive derealization and dematerialization of human beings in the realm of virtual reality which may come to rule every realm of life from war to sex. From this perspective, technology emerges as the major problem and threat of the contemporary era, as a demonic force that threatens to erase the human. Much as his predecessors, Heidegger and Ellul, Virilio warns of the totalitarian threat in technology and calls for a critical discourse on technology, recognition of its possible negative effects, and regulation of technological development, subjecting technology to human and political control. Yet Virilio has never really theorized technology per se, and uses the same model and categories to analyze war technology to characterize new **information technology**. Thus, he has not really unravelled the riddle of technology which would have to interrogate its fascination, power, and complexity, and not just its negativity. Virilio criticizes the discourses of technophilia, that would celebrate technology as salvation, that are totally positive without critical reservations, but he himself is equally one-sided, developing a highly technophobic and negative discourse that fails to articulate any positive aspects or uses for new technologies, claiming that negative and critical discourses like his own are necessary to counter the overly optimistic and positive discourses. In a sense, this is true and justifies Virilio's predominantly technophobic discourse, but raises questions concerning the adequacy of Virilio's perspectives on technology as a whole and the extent to which his work is of use in theorizing the new technologies with their momentous and dramatic transformation of every aspect of our social and everyday life.

Locating executive authority as the source of democratic failures is wrong and counterproductive

Grove, 8

(Prof-University of Hawaii, “A Schmittian Century?: From Nuclear Leviathan to Nuclear-Sovereign-Assemblage,” 3/17, http://becomingwar.blogspot.com/2008/03/chapter-1-schmittian-century-from.html)

Initially nuclear weapons seemed to solidify even complete the decisionistic model of sovereignty once and for all. In Virilio’s reading of Schmitt’s the state of emergency became permanent and **democracy ended once it became possible for a single individual to decide** to got to war and to finish that war in 30 minutes. At first glance Virilio’s apocalyptic diagnosis seems accurate. Nuclear weapons at their current numbers could destroy the entire planet and given the structure of the United States nuclear command any Congressional or popular attempt to stop the war would be in vain. This is the backbone of Virilio’s argument. Politics and a democratic balance of power require time. Time to react, time to respond, time to debate, time to strategize, time to implement and ICBMS nullify time. But **Virilio is wrong**. The threat of the extreme case has obscured the actual or present case that presents new opportunities for intervention**. Politics, whether micro or macro, does not begin and end with the sovereign decision**; the sovereign decision (both expressively and in its enactment) emerges from a relay of forces, connections, and other previous decisions, resonances, forces, and actants that are presupposed in each subsequent iteration of the sovereign decision, and layered in multiple streams of time. Even an increasingly automated nuclear arsenal requires the participation of literally millions of people and countless networks, objects, tectonic stability, stable solar flare activity and on and on. The decision **only** appears singular **when Virilio truncates time to the moment the president ‘pushes the button.**’ We are not as of yet in that moment so other temporal rhythms abound and each part of the nuclear assemblage follows a different temporal course. Certainly the sovereign decision is a powerful, expressive, performative act of individuation for the sovereign and highly affective in mobilizing populations, but it **is not self-constituted or** self-**causal.** The process of individuation and mobilization necessitates a field of relations and resonances from which the sovereign decision emerges. The decision is also not decisive. Instead it territorializes the relations *from which it emerges* through its resonant modulation. The enunciation of a sovereign decision (a distinct inquiry from the ‘making of a decision. Certainly no less emeshed but nonetheless ought to remain analytically different) is something like a refrain, the sovereign—in so far as it is constituted by the enunciation of decisions—is a condensation point for national ethos, affect, and institutional identity making. Each decision is constitutive not of the ‘sovereign’ as is the case in Schmitt’s analysis but of a sovereign point of identification or reified, dogmatic consistency which can be recognized but need not remain static or immobile. Again however such a node is only possible because of its attachments whether physical or resonant (both material) to the complex system of tradition, culture, wires, telephones, satellites, nuclear silos, television cameras, previous sovereign decisions, personal affective characteristics, character, etc. **This list is not exhaustive** by any measure however it gestures in the direction of what I am trying to get at. The sovereign is not an individual, at best it is an iterative series of moments of performative or expressive individuation resulting from a complex interface with machines, networks, affective fields. The assemblage has a life of its own that cannot and should not be reduced to a single point simply because that is most consistent with our common sensibilities. In some sense the sovereign is a prosthesis or interface to be worn by whoever is elected to office. (President as first-person-shooter?) This does in part explain why there is so little transition time between each sovereign and so little variation in war powers. It is reference point or index for a history of actions and events made more complex by the function it is meant or believed to serve. It is the titular focal point of an assemblage that if recognized as such would undermine its own function. An assemblage that function because it can inspire belief in it is unity not its dispersed and multivalent organization. The irony is that the development of miles of fiberoptic networks, new technological interfaces and mobility was supposed to save the centralized and hierarchical sovereign form from its obvious strategic liability—that of being an easy target. However in increasing its ‘survivability’ it has also opened innumerable points of access to the supposed center. Each access point whether it be technological, affective, or economic that can recenter, or reterritorialize the sovereign assemblage. I do not want to make this sound ‘easy’ or ‘painless’ however as this ‘dispersed’ or redundant network system has become ‘everyday’ increasingly the President has been unaware of exactly who is in control or even at how many levels the Nuclear-sovereign-assemblage can be engaged or reterritorialized.

Obama circumvents the plan

Wolfgang 1/16/14

Ben, White House Correspondent for the Washington Times, “Little change expected in U.S. surveillance policy,” http://www.washingtontimes.com/news/2014/jan/16/little-change-expected-in-us-surveillance-policy/

If the skeptics are correct, President Obama is about to **embrace** and endorse many of the controversial national-security tools and tactics introduced by his predecessor, despite railing against those policies while campaigning for the Oval Office in 2008. Expectations for Friday's long-awaited address, in which Mr. Obama will outline changes to U.S. spying, surveillance and data-collection efforts, are exceedingly low among privacy advocates and others. They expect the president, while paying **lip service** to the notion of privacy protections and limited government power, to continue the practices first established by the Bush administration in the aftermath of the Sept. 11, 2001, terrorist attacks. Mr. Obama's shift shouldn't come as a surprise, political analysts say, and can be partly attributed to the fact that **it's simply difficult for a president to ever give up authority,** **especially if that authority is meant to protect American lives.** It also may come from the fact that the president fears being viewed by history as the commander in chief who curtailed intelligence-gathering only to see a terrorist attack occur, said William Howell, a politics professor at the University of Chicago who has written extensively on presidential power. "When you're running for office, you may espouse the benefits of a limited executive, but when you assume office, there are **profound pressures** **to claim** and nurture **and exercise authority** at every turn **and not** to **relinquish** the **powers available to you**," Mr. Howell said. Leading up to and during his 2008 presidential campaign, Mr. Obama made it a point to separate himself from Mr. Bush on the national security front, but there remain many **notable similarities**. Guantanamo Bay still is operational, despite repeated pledges from the president that he'd close the U.S. detentional facility in Cuba and house enemy combatants elsewhere. Mr. Obama has dramatically **increased** the use of drones to target terrorists abroad — a step the administration vehemently defends as being quicker, more effective and far less dangerous to American personnel than sending in ground troops. U.S. surveillance efforts, rather than having been reined in, have in some ways **expanded**. In the process, they have caused Mr. Obama significant foreign policy headaches.

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

Cyberwar negates the human impact to war

Thomas Rid, Kings College London War Studies, Nov/Dec 2013, Cyberwar and Peace, Foreign Affairs, Ebsco

If cyberattacks reduce the amount of violence inherent in conflict, and if they often take the form of sabotage or espionage, then many officials and commentators who have been warning about the dawn of cyberwar have been ringing false alarms. Digital violence does have implications for ethics and for national security strategy, however. Weaponized code, or **cyberattacks** more generally, can **achieve goals that used to require conventional force**. The most sophisticated cyberattacks are highly targeted, and cyberweapons are unlikely to cause collateral damage in the same way conventional weapons do. **Therefore**, in many situations, the use **of computers would be ethically preferable to the use of conventional weapons: a cyberattack might be less violent**, less traumatizing, **and more limited**.

A comparable dynamic applies to the ethics of cyber-espionage. Intelligence might be gained by infiltrating computer systems and intercepting digital signals, or it might be acquired by sneaking human spies, sometimes armed, into hostile territory at personal risk, or it might be got by interrogating suspects under harsh conditions. Depending on the case, computer espionage might be ethically preferable to any of the other options.

A cyberattack will not always be the strategically sound option, however. Indeed, even the celebrated Stuxnet operation was not necessarily a strategic success. The attack was designed to slow and delay Iran's nuclear enrichment program and undermine the Iranian government's trust in its ability to develop a nuclear weapon. The attack might well have achieved those goals in the short term. But as soon as the malfunctions and delays were traced to sabotage, the psychological effect of the operation likely changed, as the Iranians could reassure themselves that they were not "stupid" and that they were faced with aggressive foreign adversaries. They now knew that the problem was not their own ineptitude; somebody else was doing this to them.

In an ongoing confrontation, such as the one over Iran's nuclear program, cyberattacks might yield valuable intelligence, but they likely possess very little coercive value. Consider that during the Cold War, the United States stationed hundreds of thousands of ground forces in West Germany and other areas bordering the Soviet bloc to communicate that Washington was alert and technically sophisticated, as well as serious about attacking if Moscow crossed a redline. A contemporary counterproliferation approach that relied on cyberattacks, by contrast, might send an altogether different message to the Iranians: that Washington is alert and technically sophisticated, but not really serious about attacking, even if Tehran does cross a redline. After all, a standalone **cyberattack would not** likely **put the lives of U.S. personnel in peril, a fact that could signal a lower level of commitment**.

Retaliation would be controlled

NBC 11

NBC News, May 31, 2011, "Sources: US decides cyber attack can be 'act of war'", http://www.nbcnews.com/id/43224451/ns/us\_news-security/t/sources-us-decides-cyber-attack-can-be-act-war/#.UiS6OJLVCSo

In its first formal cyber strategy, the Pentagon has concluded that computer sabotage by another country could constitute an act of war, administration and military sources told NBC News on Tuesday, confirming a report in the Wall Street Journal.

The officials emphasize, however, that not every attack would lead to retaliation. Such a cyber attack would have to be so serious it would threaten American lives, commerce, infrastructure or worse, and there would have to be indisputable evidence leading to the nation state involved, NBC Pentagon correspondent Jim Miklaszewski said.

Unclassified parts of the 30-page strategy are expected to become public in June, the Wall Street Journal reported, attributing the disclosure to three defense sources who had read the report.

A military source described the strategy to the Journal this way: "If you shut down our power grid, maybe we will put a missile down one of your smokestacks."

Pentagon officials and others in Washington are still debating what would constitute an act of war, the Journal stated, though one idea gaining traction is that of "equivalence" — military retaliation would be triggered by a cyber attack that causes the kind of death, damage or high-level disruption that a traditional military attack would cause.

# 2nc

## \*\*\*T

## at w/m

Aff isn’t a statutory restriction

Merriam Webster No Date

stat·u·to·ry adjective \ˈsta-chə-ˌtȯr-ē\

Definition of STATUTORY 1: of or relating to statutes 2: enacted, created, or regulated by statute <a statutory age limit>

Or judicial

Random House Dictionary 2013

(<http://dictionary.reference.com/browse/judicial>)

ju·di·cial [joo-dish-uhl] Show IPA adjective 1. pertaining to judgment in courts of justice or to the administration of justice: judicial proceedings; the judicial system. 2. pertaining to courts of law or to judges; judiciary: judicial functions. 3. of or pertaining to a judge; proper to the character of a judge; judgelike: judicial gravity. 4. inclined to make or give judgments; critical; discriminating: a judicial mind. 5. decreed, sanctioned, or enforced by a court: a judicial decision.

## at c/i

Only after the colon matters

Webster’s Guide to Grammar and Writing 2k

Use of a colon before a list or an explanation that is preceded by a clause that can stand by itself. Think of the colon as a gate, inviting one to go one…If the introductory phrase preceding the colon is very brief and the clause following the colon represents the real business of the sentence, beginning the clause after the colon with a capital letter.

Should denotes an expectation the aff will be enacted

American Heritage Dictionary 2K

Used to express probability or expectation

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.

This is silly–people don’t control statutory or judicial restrictions–plus even if the government is a lot of people it’s none of the people in this room.

USFG is the government in Washington D.C.

Encarta Online Encyclopedia 2K [http://encarta.msn.com](http://encarta.msn.com/)

“The federal government of the United States is centered in Washington DC”

## at case da

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**.

## at too fast

Their description of executive war power as a “quest for speed” is just inaccurate—decisionmaking is not impossible but instead enabled by structured policy debate

James Pfiffner, George Mason University Public Policy School Doctoral Program Director, Professor,, June 2011, Decision Making in the Obama White House, pfiffner.gmu.edu/files/pdfs/Articles/Obama Decision Making, PSQ.pdf

Presidents attract extremely smart, ambitious people to serve in the White House, but the quality of the advice the president receives depends upon how he or she uses the available talent. Chief executives face daunting challenges in evaluating the onslaught of information, judging the perspectives of their subordinates, and ensuring that they receive advice based on presidential perspectives rather than the priorities of their subordinates. Political scientists who study presidential decision making have come to consider several factors as central to understanding White House organization and process: the level of central- ization, the extent of multiple advocacy, and the use of honest brokers to manage advice to the president. This article examines President Obama’s decision-making style with respect to these three factors and uses several case studies to illustrate them: economic policy, detainee policy, and decision making on the war in Afghanistan. Centralization, Multiple Advocacy, and Honest Brokers Presidents have dealt with the challenges of obtaining useful information and advice in a variety of ways. To ensure that they receive advice from a broad perspective rather than from the necessarily limited perspective of their Cabinet secretaries who tend to be advocates for their own departments, presidents have expanded their White House staffs and used them as their primary advisors. In order to ensure that they do not make hasty decisions and neglect important considerations, some presidents have insisted on an orderly process of deliberation that includes opposing points of view and different policy options before making important decisions. Others have appointed “honest brokers” to their staffs to ensure that no important perspective from their staffers or Cabinet secre- taries will go unheard. President Barack Obama continued to centralize policy advice in the White House and insisted on multiple advocacy in policy deliberations. He did not, however, appoint honest brokers but chose to control the details of policy making himself. Centralization Presidents since Eisenhower have steadily centralized control of policy and advice to the president in the White House staff. Presidents up through mid-twentieth century had relatively small White House staffs and saw the members of their Cabinets as principal advisors. Eisenhower epitomized what has been called Cabinet government, American style. That is, he used his Cabinet as a deliberative body and delegated leeway for his Cabinet secretaries to make policy within their own departmental jurisdictions. He summed up his vision of the role of his Cabinet secretaries in his instructions to them: “You are not supposed to represent your department, your home state, or anything else. You are my advisers. I want you to speak freely and, more than that, I would like to have you reflect and comment on what other members of the cabinet say” (Burke 2010, 361). John Kennedy, after the disaster of the Bay of Pigs invasion, began to centralize policy advice in the White House when he instructed McGeorge Bundy to “set up a little state department” in the White House. President Richard M. Nixon, with his legendary mistrust of the career bureaucracies, institutionalized White House staff units, such as the National Security Council (NSC) and the Domestic Policy Council, as alternative policy development centers. He wanted his own analytic capability under his direct control so that he did not have to depend on the department or agencies of the broader executive branch for policy advice. As a consequence, Nixon increased significantly the size of the White House staff. In reaction to Nixon’s centralizing approach to governance, President Jimmy Carter attempted what he called Cabinet government by delegating discretion to his depart- ment secretaries. But after several years of frustration, he replaced five of his Cabinet secretaries and placed his confidence in the White House staff. President Ronald Reagan began with the intention of delegating to his Cabinet secretaries but soon realized that in order to control policy making, especially in foreign policy, he had to entrust it to his closest advisors. Since Reagan, it has been generally accepted that presidents had to oppose the centrifugal tendencies of American government by depending primarily on their White House staffs at the expense of their Cabinet secretaries. The centralizing tendency of the presidency might seem on the surface to depend upon personal relationships and the preferences of presidents. Structural and systemic factors, however, drive the centraliza- tion of policy development into the White House. The perspectives of Cabinet secretaries are necessarily influenced by their policy perspectives and advocacy for their departments. To counteract these centrifugal tendencies, presidents need advice that cuts across depart- ment boundaries. In addition, White House staffers have the advantage of physical and psychological proximity to the president. Given the steady trajectory of centralized policy making in the presidency, Presi- dent Obama’s continuation of the centralizing trend would be unremarkable. Yet Obama began his administration by promising his attorney general, Eric Holder, broad discre- tion in policy making on the prosecution of detainees in the war on terror. But after Holder had made some initial decisions, pressure from the White House staff, particu- larly Rahm Emanuel, convinced Obama to back off from some of Holder’s decisions. As a result of what was seen as Holder’s lack of political sensitivity, Obama abandoned his experiment with delegation, as I will discuss below. Multiple Advocacy Political scientists are students of structure and process and have argued that an orderly policy process can enhance presidential decision making; or at least the lack of an orderly process will probably hurt it. As President Dwight D. Eisenhower observed, “Organization cannot of course make a successful leader out of a dunce, any more than it should make a decision for its chief. But it is effective in minimizing the chances of failure and in insuring that the right hand does, indeed, know what the left hand is doing” (1965, 630). Alexander George (1972, 1980) argued that presidents needed to assure that their advisory systems provide them with a range of alternatives for any important decision and that the best way to assure this was a system of “multiple advocacy.” He argued that the mere presence of differing views among White House staffers did not guarantee the effective presentation of alternatives to the president. Thus, the system had to be consciously structured so that the representatives of different alternatives possessed similar intellectual and bureaucratic resources. Importantly, the implementation of multiple advocacy calls for active participation by the president in order to assure a balanced and structured debate over policy alternatives (George 1980, 193). The comparison of two crucial decisions on Vietnam illustrates the importance of structuring advice to the president: Eisenhower’s decision in 1954 not to commit U.S. ground troops and Lyndon Johnson’s decision in 1965 to escalate the U.S. military commitment. Eisenhower structured his approach to elicit conflicting perspectives and considered them explicitly. Johnson’s approach, in contrast, tended to narrow his options and discourage debate. In 1954, President Eisenhower faced the decision of whether to intervene in Vietnam to rescue French forces that were surrounded at Dien Bin Phu or to allow the French to be defeated and pushed out of Vietnam. Eisenhower had developed a national security policy-making process that was relatively formal and based on the direct confrontation of policy alternatives. In his memoirs he described his approach: “I know of only one way in which you can be sure you’ve done your best to make a wise decision. This is to get all of the people who have partial and definable responsibility in this particular field, whatever it may be. Get them with their different viewpoints in front of you, and listen to them debate” (Burke and Greenstein 1991, 54). After a full airing of opposing perspectives in front of him, Eisenhower decided that it would be wise not to intervene directly in Vietnam. In contrast with Eisenhower’s approach to decision making, President Johnson made a series of incremental decisions in the spring of 1965 that led to an open-ended commitment of U.S forces to the war in Vietnam. Johnson did not encourage his advisors to confront fully the broader implications of their decisions, and they failed to recognize explicitly the implications of each stage of the escalation. In Burke and Greenstein’s terms, the sequence of decisions “was simply devoid of analysis” (1991, 278). Johnson’s series of decisions about Vietnam were in sharp contrast with Eisenhower’s carefully orchestrated deliberations. Eisenhower forced confrontation of ideas among his advisors; Johnson suppressed disagreement. Johnson’s insecurity and overbearing personality discouraged the open exchange of ideas; Eisenhower’s experience and self-confidence led him to allow his judgments to be challenged in the course of deliberations. Johnson discouraged dissent; Eisenhower made it clear that he did not want yes-men. Eisenhower’s NSC process was orderly and deliberate in allowing disagreements to be fully aired; Johnson’s policy-making process, in Greenstein and Burke’s analysis, was “an organizational shambles” (1989-1990, 575). President Obama’s major decisions exhibited careful (and sometimes lengthy) policy deliberations in which advocates for contrasting policy options directly confronted their disagreements, and often each other, in front of the president. In detainee policy, he brought Holder into the White House to directly confront those who opposed his decisions about trying accused terrorists in the civilian court system. In economic policy, he insisted that dissenting perspectives be presented to him directly in front of those favoring the consensus policy. Du

ring deliberations over Afghanistan, he insisted on being briefed on a counterterrorism alternative that Chairman of the Joint Chiefs Michael Mullen did not want released (Woodward 2010, 237-38). Obama’s approach to multiple advocacy was epitomized by the deliberations over the war in Afghanistan in the fall of 2009, leading up to his decision to increase U.S. troop levels to more than 100,000. As Obama sought alternatives to sharp escalation, former Vice President Richard Cheney accused him of “dithering.” But Obama insisted upon a continuing dialogue until he was satisfied with his final decision. I examine Obama’s struggle to reconcile the disagreements over U.S. strategy below.

## sim good

Policy simulation key to creativity, decisionmaking, and agency—the detachment that they criticize is key to its revolutionary benefits

Eijkman ‘12

Henk, currently an independent consultant as well as visiting fellow at the University of New South Wales at the Australian Defence Force Academy and is Visiting Professor of Academic Development, Annasaheb Dange College of Engineering and Technology in India. As a sociologist he developed an active interest in tertiary learning and teaching with a focus on socially inclusive innovation and culture change. He has taught at various institutions in the social sciences and his work as an adult learning specialist has taken him to South Africa, Malaysia, Palestine, and India. He publishes widely in international journals, serves on Conference Committees and editorial boards of edited books and international journals. “The role of simulations in the authentic learning for national security policy development,” National Security College Occasional Paper No 4 May 2012\*CAS=complex adaptive systems

Why use policy Sims?

The leading question that underpins this report is this: Why use policy Sims for learning purposes in academic settings when we have many other well developed methods and techniques we can use; from expert-led lectures, seminars and case studies, to workshops? The short answer lies in the four educational functions of Sims: 1. Demonstration function**:** explore concepts, principles, methods, processes and procedures of the social systems involved. 2. Learning function***:*** develop skills, problem-solving, decisionmaking, etc. 3. Motivation function: involve learners in the educational process and stimulate intrinsic motivation. 4. Arousal function:increase the level of activation of learners (Klabbers, 2006; Marshev & Popov, 1983). Policy Sims use these four educational functions in a range of simulation-gaming combinations designed to best assist academic course participants in learning how to effectively engage in the policy development process and become immersed in policy exploration, decision-making, and strategic change. This ispossible because the potential of the educational functions in policy simulations lies in their capacity to: combine the rigor of systems analysis and simulation techniques with the creativity of scenario building and the communicative power of role-play and structured group techniques. Reality is simulated through the interaction of role players using non-formal symbols as well as formal, computerized sub-models where necessary. The technique allows a group of participants to engage in collective action in a safe environment to create and analyse the futures they want to explore. It enables [participants] to pre-test strategic initiatives in a realistic environment (Geurts et al. 2007: 535) As Mayer (n.d.) suggests, we can also view policy simulations through multiple frames, as in Fig. 2.4 below. Policy simulations can thus be seen in different ways, or with different emphases. We can view them primarily as a learning method, or as a means of innovation, persuasion and/or culture shift, depending on an institution’s orientation e.g. realistidealist or intervention-transformation. However, whether as an approach to learning, innovation, persuasion or culture shift, policy simulations derive their power from two central features: their combination of simulation and gaming (Geurts et al. 2007). 1. The simulation element: the unique combination of simulation with role-playing.The unique simulation/role-play mix enables participants to create possible futures relevant to the topic being studied. This is diametrically opposed to the more traditional, teacher-centric approaches in which a future is produced for them. In policy simulations, possible futures are much more than an object of tabletop discussion and verbal speculation. ‘No other technique allows a group of participants to engage in collective action in a safe environment to create and analyse the futures they want to explore’ (Geurts et al. 2007: 536). 2. The game element: the interactive and tailor-made modelling and design of the policy game. The actual run of the policy simulation is only one step, though a most important and visible one, in a collective process of investigation, communication, and evaluation of performance. In the context of a post-graduate course in public policy development, for example, a policy simulation is a dedicated game constructed in collaboration with practitioners to achieve a high level of proficiency in relevant aspects of the policy development process. To drill down to a level of finer detail, policy development simulations—as forms of interactive or participatory modelling— are particularly effective in developing participant knowledge and skills in the five key areas of the policy development process (and success criteria), namely: Complexity, Communication, Creativity, Consensus, and Commitment to action (‘the five Cs’). The capacity to provide effective learning support in these five categories has proved to be particularly helpful in strategic decision-making (Geurts et al. 2007). Annexure 2.5 contains a detailed description, in table format, of the synopsis below. Policy simulations address Complexity Policymaking deals with ill-structured or ‘wicked’ problems (Rittel & Webber, 1973), and thus requires soft rather than hard systems thinking (Checkland, 2001). This typically involves: (a) the integration of multiple sources and types of data, insights and tacit knowledge into a problem-specific knowledge database; (b) the provision of an environment through which to explore different strategies; and (c) a holistic approach to the problem’s complexity in which a wide range of perspectives, skills, and information is available, and which also involves key decisionmakers and stakeholders. In contrast to traditional learning approaches, simulations have the capacity to effectively convey the totality of a model and the dynamics of a system. When participants experience the collective building and testing of policy options in the safe world of a simulation, abstract ideas and fears become tangible, the specific implications of various alternatives for different stakeholders become visible, and pertinent uncertainties can be distinguished from insufficient knowledge sharing (Geurts et al. 2007). Policy simulations facilitate ‘multilogue’ Communication Policy simulations facilitate effective communication across diverse groups, encourage the exchange of ideas, and bridge communication gaps. Participants begin to create a situationspecific language permitting them to communicate with each other about the issues with much greater clarity. This situationspecific language includes, but is not limited to, spoken or written words. A good simulation includes a range of artefacts that support effective communication among participants. Duke (1974) conceptualises simulations as a hybrid, a multilogic rather than dialogic form of communication: as a language for dealing with the complexities of the future. In contrast to dialogue, multilogue is about the enabling of contact between many persons with different perspectives through the use of different forms of communication in parallel, such as through the social media tools of blogs, wikis, twitter, etc. Duke (1974) considers games primarily as a tool to structure communication in complex situations (Geurts et al. 2007). Policy simulations stimulate Creativity Participation in policy games has proved to be a highly effective way of developing new combinations of experience and creativity, which is precisely what innovation requires (Geurts et al. 2007: 548). Gaming, whether in analog or digital mode, has the power to stimulate creativity, and is one of the most engaging and liberating ways for making group work productive, challenging and enjoyable. Geurts et al. (2007) cite one instance where, in a National Health Care policy change environment, ‘the many parties involved accepted the invitation to participate in what was a revolutionary and politically very sensitive experiment precisely because it was a game’ (Geurts et al. 2007: 547). Data from other policy simulations also indicate the uncovering of issues of which participants were not aware, the emergence of new ideas not anticipated, and a perception that policy simulations are also an enjoyable way to formulate strategy (Geurts et al. 2007). Gaming puts the players in an ‘experiential learning’ situation, where they discover a concrete, realistic and complex initial situation, and the gaming process of going through multiple learning cycles helps them work through the situation as it unfolds. Policy gaming stimulates ‘learning how to learn’, as in a game, and learning by doing alternates with reflection and discussion. The progression through learning cycles can also be much faster than in real-life (Geurts et al. 2007: 548). The bottom line is that problem solving in policy development processes requires creative experimentation. This cannot be primarily taught via ‘camp-fire’ story telling learning mode but demands hands-on ‘veld learning’ that allow for safe creative and productive experimentation. This is exactly what good policy simulations provide (De Geus, 1997; Ringland, 2006). In simulations participants cannot view issues solely from either their own perspective or that of one dominant stakeholder (Geurts et al. 2007). Policy simulations enable the seeking of Consensus Games are popular because historically people seek and enjoy the tension of competition, positive rivalry and the procedural justice of impartiality in safe and regulated environments. As in games, simulations temporarily remove the participants from their daily routines, political pressures, and the restrictions of real-life protocols. In consensus building, participants engage in extensive debate and need to act on a shared set of meanings and beliefs to guide the policy process in the desired direction, yet without sacrificing critique and creativity. During the joint experimental actions of simulation, value debates become focused, sharpened, and placed into operational contexts that allow participants to negotiate value trade-offs. Participants work holistically, from the perspective of the entire system, in order to reach a joint definition of the problem. Most importantly, role-playing takes the attention away from the individual (Geurts et al. 2007). To cite one case, Geurts et al. (2007: 549) note that the ‘impersonal (in-role) presentation of some of the difficult messages was a very important factor in the success of the game. When people play roles, they defend a perspective, not their own position: what they say in the game, they say because their role forces them to do so’. Consequently, policy simulations make it possible for participants to become (safely) caught up and to learn powerful lessons from conflict-ridden simulations rather than from conflict-ridden real-life policy processes (Geurts et al. 2007). Policy simulations promote Commitment to action When participants engage collaboratively in a well-designed policy simulation and work towards the assessment of possible impacts of major decision alternatives, they tend to become involved, reassured and committed. However, participating in a simulation about one’s own organisation or professional arena can also be a disquieting experience. The process of objectification that takes place in a well-designed and well-run simulation helps to reinforce memory, stimulate doubt, raise issues, disagreements and further discussions, and acts to control the delegation of judgement (those who are affected can check the logic of action). Good simulations engage participants in the exploration of possible futures and foster the power of ‘exercises in explicitness’ to question and prevent unrealistic overcommitment to one idea or course of action and critically explore situations and conditions where a chosen strategy deviates, fails, or backfires.

# 1nr

## Link

#### Their rejection of the impulse to cede power is unnecessary—its tyrannophobia—it links to war powers

Eric Posner, Professor of Law, The University of Chicago Law School, and Adrian Vermeule, Professor of Law, Harvard Law School, March 2011, The Executive Unbound, p. 193-5

Against this historical and comparative background, we turn to the relationship between tyrannophobia and dictatorship in the United States. If tyrannophobia were a crucial safeguard against dictatorship, it would have benefits. However, we believe that tyrannophobia is either not a safeguard against dictatorship, or is at best an unnecessary and costly one, akin to placing one's house underground to guard against the risk of a meteor strike. In the administrative state that flowered in the twentieth century, demographic factors and the basic constraint of elections jointly provide an independent and sufficient buffer against dictatorship. The contemporary United States is too wealthy, with a population that is too highly educated, to slide into authoritarianism. An implication is that even if tyrannophobia reduces the risk of dictatorship, it must also constrain grants of power to the executive that are otherwise desirable. The former effect is a benefit, the latter a cost; but the benefit is minimal, because demography and elections, taken together, independently prevent dictatorship. Accordingly, either tyrannophobia has no effect on the risk of dictatorship, or else it produces social costs for little in the way of offsetting benefits. Causes of Tyrannophobia As we saw above, tyrannophobic rhetoric, possibly rational, played an important role in the American founding. The puzzle is that, even if it was justified in that period as a prophylactic against dictatorship (and it may well not have been), it has persisted across two hundred years of political stability. Bounded rationality Psychologists have offered a number of hypotheses for why people have incorrect beliefs about the risk of an event. These hypotheses center around bounded rationality, particularly cognitive biases and reliance on mental shortcuts called heuristics." People exaggerate risks of events that inspire them with dread (cancer deaths rather than ordinary illnesses), that they have no control over (nuclear accidents rather than car accidents), and that have unusual salience. The first tendency is related to loss aversion, the attribution of greater weight to losses than to identical gains against an arbitrary reference point. People are also imperfect Bayesians: they update probability estimates in light of new information as they should, but they do not do this very well or very quickly. Instead they give too much weight to their initial estimates and discount new information that conflicts with it. Past probability estimates are stickier, over time, than would be the case with unbounded rationality. Let us compare a relatively unconstrained executive and an executive who takes orders from a legislature. There is a straightforward trade-off: the first executive can adopt policies very easily; the second must obtain the consent of a majority of the legislature. Accordingly, the first executive can more easily act to advance and undermine the public good; the second executive will have to choose from a narrower range of policy outcomes, with a limited upside and downside for the public. We can immediately see that the executive's ability to inflict worse as well as better outcomes will engage the public's loss aversion. People will irrationally overweight the bad outcome, and hence they will exaggerate the downside of the strong executive relative to the upside. The limited executive, with its limited downside, will therefore be more appealing. More speculatively, it is possible that people feel that they have less control over the executive—a remote figure with a national constituency—than over the legislature, by virtue of their representation by an individual with whom they are more likely to have contact (or to know someone who knows him or her, etc.). Further, the president is a salient figure, the personification of government and the focus of the national media. It follows that the risks and consequences of executive power are also more salient than the risks of legislative and judicial power. Finally, and even more speculatively, imperfect Bayesian updating implies that possibly justified fears of executive overreaching that existed in earlier periods, including the founding, could outlast changes in circumstances.69 Bayesian updating is an attribute of individual decision-making of course, but perhaps such a phenomenon could take place at a collective level. Successive generations inherit attitudes toward the executive held by previous generations; attitudes that might be justified at an earlier time are not adjusted by later generations in light of changed circumstances, such as the improved education of the citizenry. One might even suggest that in a country such as the United States with strong traditions of equality and individualism, the president will frequently be the target of strong feelings of resentment and envy. The pomp of the office sits uneasily with republican sensibilities. The suspicion that any president will secretly attempt to obtain dictatorial powers might help resolve cognitive dissonance between these feelings and the evident inability of presidents to do much more than respond to crises and implement a tiny portion of their political agenda." Tyrannophobia is an element of the broader paranoid style in American politics, which attributes vast, wrenching social changes to the machinations of individuals or small groups thought to have extraordinary power.71 Overall, then, the suggestion is that ongoing tyrannophobia in the United States can be explained by cognitive biases and other psychological phenomena. Just as a single nuclear accident can cause people to overestimate the risks of nuclear energy and hence demand that government shut down that industry, with the result that no further accident can ever occur, the prefounding brush with executive tyranny—followed by the dictatorships of such figures as Mussolini, Hitler, Stalin, and Mao—has caused Americans to overestimate the risk of executive power and hence recoil against even reasonable moves toward greater executive authority. Even though dictatorship has never existed in the United States, Americans fear dictators and refuse to support anyone who seems to have dictatorial ambitions, and are reluctant to support legislative and constitutional changes that could increase executive power; this reluctance persists even though circumstances have changed, and the actual risks of dictatorship are far lower than in the past.

## Their ev

#### Voting aff endorses a radical embrace of that uncertainty. Liberalism closes off deliberation because it’s afraid where true democracy will take us, instead investing the executive with the authority to narrate the present into the future. Vote aff to open debate to futurity.

Glezos 11 (Simon, Lecturer of Political Science at the University of Victoria, British Columbia, “The ticking bomb: Speed, liberalism and ressentiment against the future”, *Contemporary Political Theory* 10.2 (May 2011): 147-165. doi:10.1057/cpt.2010.6

#### Absent an analysis of temporality, any project to resuscitate politics will fail. We must begin with the question of speed.

Scheuerman 9 (William E. Scheuerman, professor of political science at the University of Minnesota, “Citizenship and Speed” in *High-Speed Society: Social Acceleration, Power, and Modernity*, 2009. pub. The Pennsylvania State University Press, eds. Hartmut Rosa and William E. Scheuerman, pp. 292-296

#### This acceleration has eroded the very conditions of possibility for liberal democracy – the traditional mechanisms of civic life have been rendered obsolete by the instability of time itself

Scheuerman 1 (William E. Scheuerman, professor of political science at the University of Minnesota. “Liberal Democracy and the Empire of Speed.” *Polity*, Vol. 34, No. 1 (Autumn, 2001), pp. 41-67

II. The Space and Time Horizons of Traditional Liberal Democracy Assumptions about space and time permeate traditional liberal-democratic political theory. I first examine these assumptions in the context of liberal-democratic accounts of lawmaking, before addressing conventional notions of constitutionalism and the rule of law. Since Locke and Montesquieu, liberal political thought has relied on a sharp contrast between the time horizons of legislative and of executive activities. Legislative politics is conceived as resting on a process of free-wheeling deliberation involving a rich sample of public opinion, and liberal thinkers repeatedly emphasize the necessarily measured and unhurried prerequisites of a legitimate process of reasonable debate in which participants possess a fair chance to express and defend political views.26 Revealingly, even those writers skeptical of popularly elected legislatures, in part because of the alleged irrationality of popular debate, often find themselves forced to describe the relatively slow and deliberate character of legislative debate as constituting one of their virtues: Alexander Hamilton writes in Federalist 70 that the inevitable “differences of opinion” and “jarring of parties” characteristic of legislative politics means that in the legislature “promptitude of decision is oftener an evil than a benefit.”27 Although Hamilton famously believed that the “personal firmness” requisite for competent political leadership was most likely to be found in the executive, even he acknowledged that a time-consuming process of deliberative give-and-take was indispensable if “circumspection” were to be achieved within representative assemblies.28 On one level, Hamilton and others within the liberal tradition thereby merely underscore the point that debate within any but a tiny group, regardless of its cognitive quality, is destined to be time-consuming solely because of its sequential character. Since “two speakers at an assembly cannot both be heard by everyone if they try to speak simultaneously,” even a relatively unimpressive deliberative exchange in a parliament consisting, for example, of a mere 100 representatives is likely to seem slow-going.29 On another level, liberals simultaneously defend the relatively slow character of legislative exchange as a necessary precondition for assuring its high quality. In this view, the fact that the legislature is “taking its time” provides prima facie evidence that its deliberations are suitably thorough in character, and thus of the legitimacy of the legislature’s special status as the main site for lawmaking. The unhurried character of legislative debate is then typically contrasted with the executive’s capacity for expeditious action. To be sure, the relationship between the legislature and executive is a complicated and controversial matter in the liberal-democratic tradition. Yet the association of the executive with “dispatch” seems ubiquitous in modern liberal-democratic theory. Harvey C. Mansfield, Jr. has tried to trace this view to implicitly Machiavellian features of the modern executive, in accordance with which the suddenness of action is essential if a ruler is to impress his capacities for uirtu on an intimidated and fundamentally passive populace. In this interpretation, the emphasis on executive speed possesses eminently pre-democratic and anti-liberal credentials.30 In fact, liberals have tended to provide a more mundane argument for conceiving of the executive in terms of high-speed agere in juxtaposition to the time-consuming deliberare of the legislature. Montesquieu’s famous argument that a plural executive would inevitably undermine one of the chief functions of executive power, namely its ability to act with “dispatch,” soon became a dogmatic article of faith within liberalism.31 Although slow-moving deliberation assures a high measure of reasonableness within government, deliberative parliaments ultimately require a single actor able to actualize its imperatives in an efficient and timely manner; a plural executive might unduly and inefficiently replicate the (time-consuming) process of debate that already took place within the legislature, and thus unnecessarily reduce government’s ability to act not only in accordance with the results of reasonable deliberation, but effectively as well. In this widely-held view, representative government requires both circumspection and expeditiousness. The separation between the legislature and executive in part merely offers a sensible institutional embodiment of the (complementary) division of labor between these two fundamental prerequisites of good government. Among classical authors, Locke was probably most influential in integrating an analysis of the time horizons of political action into the liberal view of legislative-executive relations. Locke conceives of legislative power as future-oriented in the sense that laws are supposed to foresee future “necessities.” Law is prospective because only rules announced beforehand can provide legal security, but also because legislation in its very nature is concerned with the task of predicting and coordinating future needs.32 The “exigencies of the times” are “impossible to foresee” with perfection, however, and thus legislative power is inherently flawed.33 According to Locke’s Second Treatise, the most sensible answer to the legislative power’s inherent tendency to commit mistakes in predicting the future is to place “power in the hands of the prince to provide for the public good, in such cases, which depending on unforeseen and uncertain occurrences, certain and unalterable laws could not safely direct.”34 The necessity of executive discretion to act beyond and even against the law thus derives not merely from the necessity of acknowledging the limitations of inflexible and rigid legislative statutes, but from an even more fundamental need to make sure that the present is free from an unduly slavish dependence on the dictates of the past. The rigidity of law is merely a manifestation of the domination of the present by the past. Although future-oriented, legislative activity inevitably generates rules that soon represent (past) predictions about the present and future. Because “things of this world are in so constant a flux, that nothing remains in the same state,” however, Locke believes that we need to envision institutional devices capable of correcting for our limited ability to predict the future.35 Since the legislature “is usually too numerous, and too slow,” only the executive is likely to prove able effectively to break with the letter of the law for the sake of rapidly adjusting legislative authority to the dictates of a changing world.36 Scholars have long debated the precise scope of executive prerogative within Locke’s theory. When read in this light, the scope of the Lockean prerogative depends significantly on his assumptions about time and space. To the extent that Locke might plausibly be interpreted as anticipating the fact that modern capitalist society is characterized by a built-in tendency to accelerate the pace of change and innovation, executive prerogative would probably have to be a ubiquitous facet of political life in a Lockean polity.37 In other words, an adequate grasp of the increasingly fast-paced course of time and space compression would require, within the contours of Locke’s theoretical framework, an awesome executive outfitted with discretionary authority to alter and even ignore legislative statutes rapidly rendered anachronistic and irrelevant given the fast pace of change in contemporary society. On the contrary, to the degree that Locke’s picture of social and economic life remains relatively static and traditional, executive prerogative would seem destined to remain clearly circumscribed within his model.38 Presuppositions about the space and time horizons of human activity shape many other conventional assumptions about liberal-democratic decision-making. To be sure, well into the twentieth century, liberals had relatively few positive things to say about popular forms of deliberation and political action; too often, liberals reproduced the deeply-rooted anti-democratic biases of the mainstream of western political thought since Plato. When popular politics is addressed, however, assumptions about time and space typically play a pivotal role. Such assumptions are perhaps most evident in the modern response to the classical view that popular government can only be successfully realized on a small scale.39 In Montesquieu’s view, for example, the limits of popular deliberation in a geographically large state stem at least in part from obvious problems there generated by the unavoidable character of long-distance travel and time-consuming communication. Thus, Montesquieu famously defends representative government since “the people collectively are extremely unfit” for discussing public affairs especially “in large states.”40 In some contrast, Locke’s Second Treatise suggests that precisely this seeming weakness of popular deliberation represents a possible advantage: in his famous discussion of “the dissolution of government,” he argues that the inherent “slowness” of popular politics is one of the reasons why a tyrannized people is only likely to overthrow its leaders after a “long train of abuses.”41 In other words, the reasonableness of popular politics is accentuated by its slow-moving character. Procrastination—it seems—heightens the rationality of mass politics. In Federalist 10, Madison famously accepts the necessity of a representative system while reformulating Locke’s insights about the possibility of a sufficiently slow-paced, deliberate mode of popular politics: the large size of the American republic should help protect it from the familiar pathologies of republican government in part by decelerating the pace of popular political exchange. Small republics allow for rapid communication and thus are subject to the whims of “temporary considerations” inconsistent with the long-term interests of free government, whereas communication “is always checked” in a large republic, thereby reducing the ills of faction. The large size of the American republic potentially contributes to the reasonable character of popular politics, and traditional defenses of republican government are badly mistaken in their hostility to large, pluralistic polities.42 The executive veto has conventionally been conceived as a device for abating the speed of legislative decision-making and forcing the reconsideration of issues that may have been ignored.43 Both bicameralism and the separations of powers can be interpreted as tools aimed at decelerating decision-making for the sake of heightening its cognitive merits.44 Perhaps the most widely employed decision-making devices within liberal democracy, majority rule, also rests on crucial assumptions about the space and time horizons of political action. Majority rule presupposes symmetry and congruence between citizen-voters and decision-makers at the level of a particular (geographically circumscribed) political unit. Majority decisions should not be binding on “outsiders” denied any possibility of participating in their genesis.45 In addition, majority rule is only legitimate if a present minority possesses a reasonable chance to make up part of a future majority. Why should a participant accept the principle of majority rule if she were to destined to remain part of a permanent minority? As Elaine Spitz has noted, majority rule presupposes the possibility of future revisions of present-day majority decisions. In contrast, if the proposals of a present majority can be rendered permanent, they threaten to undermine the normative presuppositions of majority rule: “Plans for the future must provide for choice. No blueprint can be so comprehensive and so financed or organized that those who inherit it have no viable options about its retention. A chance to revise what has been done is essential.”46 Otherwise, majority rule risks becoming majority tyranny, and there is no longer reason for any prospective minority to assent to majority decision-making. In this conventional account, only if we can picture the future as fundamentally revisable or open can we accept majority rule as a plausible device for making decisions. Liberal models of constitutionalism and the rule of law also rest on assumptions about space and time. Since Locke, the ideal of the rule of law has typically entailed a preference for legislation that is not only supposed to be prospective or future-oriented in character, but relatively stable as well, since only a relatively unchanging body of legal norms is thought capable of preserving sufficient legal security. Unfortunately, this core attribute of traditional liberal jurisprudence probably presupposes a relatively static social and economic setting characterized by little pressure to update legal rules. As the Legal Realist Jerome Frank observed many years ago, the traditional liberal emphasis on stability within the law becomes problematic given the multiplication of settings in which legal rules inevitably encounter an ever greater variety of “permutations and combinations of events ... which were never contemplated when the original rules were made.” As Frank remarks, new instruments of production, new modes of travel and of dwelling, new credit and ownership devices, new concentrations of capital... all of these factors of innovation make vain the hope that definitive legal rules can be drafted that will forever after solve all problems. When human relationships are transforming daily, legal relationships cannot be expressed in enduring legal form. The constant development of unprecedented problems requires a legal system capable of fluidity and pliancy. Our society would be strait-jacketed were not the courts ... constantly overhauling the law and adapting it to the realities of ever-changing social, industrial, and political conditions.47 Whereas Locke had conceived of the executive as best suited to the task of compensating for the limited foresight of legislatures faced with the arduous task of predicting future “necessities,” Frank was able to grasp not only that this corrective function was destined to undergo a sizable increase in the contemporary world, but also that courts might perform it. As the pace of social and economic change dramatically accelerates, the legislature’s ability to foresee and coordinate future trends declines no less drastically. The legislature’s capacity for generating clear, binding statutes capable of effectively guiding future action hence tends to decay, and courts often step into the resultant gap by retrospectively compensating for the limited predictive talents of a legislature confronted ever more directly with the imperatives of time and space compression. However attractive from a normative standpoint, the classical dream of a relatively airtight legal code in which judicial discretion is rendered unnecessary tends to be systematically undermined by time and space compression and its resultant increases in “the speed of movement of goods, people, information, messages, and the like.”48 Written constitutions represent an especially demanding type of prospective legislation. Like legislators promulgating statutes, constitution-makers are supposed to foresee future trends for the sake of effectively funneling the operations of state authority. In some contrast to acts of regular legislation, however, they aspire to do so for “an indefinite but presumably long future.”49 Statutes may fall into disuse or require modification, whereas constitutions should last forever—or at least as long into the future as mortal beings are able to conceive. Constitutional lawmaking thus requires particularly impressive foresight and powers of prediction, since we call on constitutional lawmakers to do nothing less than achieve stable and reliable “rules of the game” for an innumerable number of future settings likely to be radically different from those in which the constitution was first promulgated. Whereas traditional liberal thinkers occasionally concede the limited predictive capacities of normal legislatures, they are more hesitant to do so in the sphere of constitutional lawmaking, notwithstanding its vastly greater cognitive difficulties. Despite Locke’s observations about the limits of legislative foresight in the Second Treatise, he also proposed “fundamental constitutions” for colonial Carolina that not only lacked amendment procedures, but was intended by him to “remain the sacred and unalterable form and rule of government of Carolina forever.”50 Of course, the American founders broke with this excessively static view of constitutionalism by including the amendment procedures outlined in Article V of the U.S. Constitution. Nonetheless, Locke’s static constitutionalism arguably haunts Article V: its inordinately complex and demanding character has encouraged a growing number of contemporary critics to argue persuasively that Article V fails to provide meaningful possibilities for achieving fundamental constitutional change by democratic means.51 In accordance with Jerome Frank’s expectations, courts have filled the gap, as the Supreme Court, taking on the role of stealth constitutional lawmaker, has repeatedly tackled the task of retrospectively “correcting” constitutional law so as to adjust it to oftentimes unprecedented social and economic trends. Whether time and space compression can help explain changes in the institutional operations of contemporary liberal democracy raises difficult empirical questions requiring careful inquiry. Nonetheless, the vantage point of political theory provides us with a starting point for highlighting where empirical researchers should focus their inquiries. One might also legitimately wonder whether a useful discussion of contemporary liberal democracy should start with eighteenth and nineteenth-century political thought; contemporary liberal democracy hardly represents a mechanical reproduction of Locke’s, Montesquieu’s or even Madison’s ideas. Yet the assumptions about space and time discussed in the previous section continue to impact on contemporary political practice in many ways. Another essay would be required to demonstrate this point conclusively. For now let me suggest that the contrast between a deliberate legislature and expeditious executive, the notion that law should be prospective and stable along with the closely related view of constitutions as entailing long-term commitments, as well as the assumption of the reversibility of majority decisions remain important features of the liberal-democratic world-view. Time and space compression presents an immediate challenge to the traditional model of legislative-executive relations. The legislature was conceived as the central site for lawmaking in part because freewheeling debate and deliberation provided its activities with a normative legitimacy missing in the executive, whose chief function was to undertake rapid-fire action in applying general legislative norms to individual scenarios. Yet time-space compression means that legislatures increasingly operate in the context of a social and economic environment characterized by incessant change and innovation. The ever faster pace of social and economic life potentially conflicts with the conventional emphasis on the legislature’s reliance on careful, wide-ranging, and time-consuming deliberative exchange. A misfit between the time and space horizons of legislative activity and of social and economic life may result. As long as laissez-faire ideology limited government’s role within economic and social affairs, this tension remained submerged. When polities become committed to developing both the regulatory and welfare states, however, the opposition at hand manifests itself plainly: legislatures are expected to do nothing less than react effectively to a multiplicity of rapid-fire changes in social and economic life while simultaneously maintaining fidelity to the traditional notion of its legitimacy as resting on wide-ranging forms of unhurried debate. Not surprisingly, legislatures tend to throw their hands up in the air in frustration when faced with these contradictory demands. Too often, contemporary parliaments abandon their lawmaking duties—to an executive envisioned as better equipped to grapple with the imperatives of speed. Confronted with the awesome challenge of regulating an ever-changing variety of fast-paced social and economic arenas, legislatures typically have delegated far-reaching authority to the executive; a substantial scholarly literature documents this now-familiar trend. We now are in a position to understand why this tendency to delegate authority—much of it poorly defined and highly discretionary—follows in part from the traditional liberal notion of the time and space horizons of political decision-making. Given the association of the executive with dispatch and expeditiousness, it makes sense to hand over especially fast-paced regulatory challenges to that institution long considered most adept at dealing with the problem of speed. Moreover, it would seem to make no less sense to provide the executive with far-reaching discretionary legal authority to do so, since the fast-changing character of the material at hand means that any clearly formulated legislative norm or standard may very well soon appear anachronistic. As Locke’s Second Treatise points out, the scope of executive prerogative is intimately connected to the legislature’s ability to foresee social and economic trends. To the extent that the legislature’s ability to coordinate future activities is drastically curtailed by the process of time and space compression, the scope of discretionary executive authority grows accordingly. Indeed, literature on the modern executive suggests that precisely this development has taken place, as the range of exceptional and even emergency executive authority has become sizable even in relatively stable liberal democracies. In our high-speed social world, the legislature’s inability “to foresee, and so by laws to provide for, all accidents and necessities, that may concern the public” is probably a main source of the ubiquity of executive discretion in modern-day liberal democracy.55 John Stuart Mill was probably the first liberal thinker to gain an inkling of the dilemma at hand, as demonstrated by his well-known discussion in Considerations on Representative Government of the necessity of far-reaching delegations of legislative authority to a “committee of very few persons.”56 Commentators on this section of Mill’s work often focus on his flattering assessment of the virtues of a well-trained group of administrative experts, thereby neglecting his perceptive observations about the significance of the time horizons of legislative activity. Mill understood that the traditional model of a time-consuming deliberative lawmaker threatened to render parliaments ineffective in the face of modern political demands. If legislators take their duties seriously and strive to achieve well-crafted legislative statutes only after having engaged in measured debate, “the mere time necessarily occupied in getting through bills, renders Parliament more and more incapable of passing any, except on detached and narrow points.”57 Conscientious legislators increasingly face the “sheer impossibility of finding time to dispose of” their lawmaking activities properly given the prerequisites of modern government.58 In short, the slow-going character of deliberative legislatures increasingly leaves them poorly suited to the regulatory challenges of modern social and economic life. Unfortunately, liberalism’s foes have arguably proven even more adept at identifying the depth of the enigma at hand. In 1950, Carl Schmitt diagnosed the appearance of what he polemically described as a “motorized legislator”: operating in the context of an accelerated [beschleunigt] world where speed is at a premium, the legislature tends to take on the form of “an ever faster” and simplified apparatus in which “summary proceedings”—not unhurried debate—become commonplace.59 For Schmitt, this reduction of the classical liberal legislature to a rapid-fire mechanical instrument for coordinating social and economic affairs was a consequence of liberalism’s congenital misunderstandings about politics, but also of the indisputable need for rapid-fire regulatory activity in contemporary capitalism. Notwithstanding liberalism’s commitment to the ideal of the deliberative legislature, the rise of the motorized legislature heralds the disintegration of the classical attributes of liberal law making—most important, its fidelity to the rule of law. Functioning as a technical device for overseeing high-speed economic affairs, liberal lawmaking increasingly consists of vague and open-ended resolutions, exceptional and emergency norms, and poorly-crafted statutes possessing a limited half-life. What then of the traditional liberal quest to heighten the quality of popular deliberation by decelerating it? The Madisonian hope that large republics would be free of irrational bouts of quick and unseasoned popular debate seems quaint in an age featuring widespread possibilities for simultaneity and instantaneousness. Time and space compression means that Madison’s belief that “communication is always checked” in a large republic is now surely less defensible than in the past. Perhaps it is no accident that contemporary concerns about the manifest failure of contemporary liberal democracy to make effective use of recent technological innovations for the sake of strengthening possibilities for thoughtful popular debate often echo Madison’s expectation that rapid communication in small republics tends to benefit narrowly interested factions. For example, Benjamin Barber points out that new information technologies possess enormous potential for improving the texture of democratic debate. Yet “teleconferencing, videotex, and the interaction possibilities of this technology are being systematically exploited in the commercial world by corporations bent on enhancing efficiency through enhancing information and communication.”60 Unless we develop adequate institutional mechanisms allowing democratic citizens to take advantage of the new technologies, Barber notes, new forms of simultaneity and instantaneousness are likely to serve a narrow set of privileged economic interests rather than the common good. We thus find ourselves confronted with a question that surely would have been familiar to Madison, despite the vast intellectual distance separating Madison’s relatively half-hearted faith in popular politics from our more robust contemporary democratic commitments: how can we channel new possibilities for popular communication so as to heighten their deliberative merits? Even though political scientists have long recognized that Madison’s ideas about large republics no longer easily obtain for contemporary liberal democracy,61 we have barely begun to scratch the surface of the normative and institutional questions raised by this fact. For example, how can autonomous publics form and maintain some minimal level of staying power amidst the high-speed pace of social and economic change? Public life probably presupposes an ability to undertake relatively long-term projects as well as some capacity for mutual trust and commitment; effective action in concert with fellow citizens is probably impossible otherwise. How are the requisite character traits to be cultivated amidst an economic and social context that privileges short-term perspectives, adaptation to constantly changing tasks, and episodic institutional and even personal ties? To put the question even more bluntly: is contemporary flexible capitalism’s emphasis on maximizing the profitable possibilities provided by new technologies consistent with long-term temporal attachments? Unfortunately, the “new economy” probably buttresses a social understanding of space and time that poses serious problems for achieving such attachments.62 Without them, it becomes difficult to see how public life can be successfully sustained. To its credit, communitarianism at least indirectly addresses this issue by placing the historically and socially situated character of the political agent at the fore of its reflections. But its traditionalist overtones—most obviously, the tendency to privilege largely unchosen commonalities of history, belief, and civic culture—leave it poorly suited to acknowledge the advances wrought by time and space compression. Time and space compression is an ambivalent and in crucial respects irreversible process; the real question is how we can harness it for the sake of refurbishing public life and, more generally, liberal democracy. One can easily conceive of manifestations of time and space compression that a decent society might sensibly discard. By the same token, it is difficult to see why a dynamic and energetic society would want to dispose of every facet of time and space compression. High speed information and communication technologies, for example, represent important achievements that any prospective political and social order—capitalist or otherwise—will need to employ properly. As John Dewey noted long ago in The Public and Its Problems, it is always easy to “lay the blame for all the evils” of modern society’s “mania for motion and speed” and “restless instability” at the doorstep of a scapegoat. The communitarians have certainly identified a number of candidates for that scapegoat.63 But we still face the difficult question of how can a public be organized ... when literally it does not stay in place? Only deep issues or those which can be made to appear such can find a common denominator among all the shifting and unstable relationships. . . . [Political attachments] are bred in tranquil stability; they are nourished in constant relationships. Acceleration of mobility disturbs them at their root. And without abiding attachments associations are too shifting and shaken to permit a public readily to locate and identify itself.64 In short, we need to confront the normative and institutional difficulties raised by incessant motion and speed without succumbing to a misplaced nostalgia for static and impervious forms of communal life. Despite his perceptive comments about the “mania for motion and speed,” even Dewey failed to capture the depth of the challenge of time and space compression to liberal democracy. For example, traditional conceptions of majority rule are similarly threatened by time and space compression. The annihilation of distance through speed means that the proper forum for a majority decision necessarily becomes controversial. Why should a particular political majority at the level of the nation-state be allowed to pursue policies having far-reaching implications for constituencies residing well beyond its borders, as increasingly occurs in the context of controversial economic and environmental matters?65 This dilemma is only compounded by the fact that a growing number of decisions of this type are fundamentally irreversible in character. When a legislative majority decides to finance genetic research or continue operating nuclear power plants, its resolution not only potentially impacts directly on a transnational public, but it becomes difficult to see how its actions might be meaningfully reversed by a subsequent political majority. An atomic power plant cannot simply be closed down and the environment freed of all traces of it, in part because the plutonium cycle operates for thousands of years; future generations will not be able to reverse revolutionary changes made in the life cycle by present-day genetic researchers.66 No less than novel forms of communication or information technology, new technologies of this type alter the traditional space and time horizons of human activity by dramatically increasing the significance of its irreversible consequences. Such activity undermines the idea of the future, typically presupposed by the traditional defense of majority rule, as fundamentally open and reversible. By effectively transforming the future into a “garbage dump” for our present-day activities, new technologies suggest yet another way in which simultaneity increasingly becomes constitutive of the human condition: the temporal gap between past and future is eerily reduced.67

## AT: Fettweis

There are real threats we need strong exec

Morgan 9 (Patrick, Director of Global Peace & Conflict Studies & Professor of Peace Research at UC Irvine, Complex Deterrence: Strategy in the Global Age, P. 9-11)

Among the great powers (the five permanent members of the United Nations Security Council), nuclear weapons are largely seen as a hedge against the emergence of great-power conflict in the future. The great-power relationships in the post-cold war era are characterized by "recessed general deterrence," or dissuasion, in which states do not expect immediate militarized conflict, but weapons are kept in the background as insurance given the inherent uncertainties of world politics. The end of the cold war witnessed substantial changes in the deterrence dynamics involving great powers, and, as a result, general deterrence and dissuasion became operational concepts. Although they do maintain large arsenals, neither the United States nor Russia is presumed to hold automatic launch-on-warning attack plans anymore, although some of the elements of the previous era are continuing. In addition, they have reduced the number of weapons they possess, although the numbers still exceed a minimum nuclear deterrence posture. The three other old nuclear powers - China, the United Kingdom, and France - also have been maintaining their smaller arsenals, but this might change as Chinese nuclear force modernization plans come to fruition in the coming decades. The logic behind the maintenance of nuclear capabilities is that the great powers want to be prepared in case their relations deteriorate in the future. Nuclear capability can also be construed as an assurance against the expansionist pathologies of great powers as described in perspectives such as offensive realism. Moreover, uncertainties in Russia and China give pause to western nuclear powers, while, for Moscow, the fear of American influence in its former spheres in Eastern Europe and Central Asia is the cardinal source of anxiety. For the rising power, China, nuclear weapons offer a major insurance against direct assault on its strategic sphere, allowing it to rise peacefully. Nuclear weapons also offer a limited but crucial deterrent against potential conflict escalation between the United states and China involving Taiwan. The great-power deterrence calculations are thus based on "recessed general deterrence" as well as "existential deterrence": no immediate expectations of war exist among them. However, as Patrick Morgan states, "if serious conflicts emerge again, then deterrence will be in vogue-if not, at least for a lengthy period, then deterrence will operate offstage, held in reserve, and will not be the cornerstone of security management for the system." this does not mean that the relations in the US-Russia and US-China dyads would remain the same in the long run. Power transition has invariably been turbulent in the international system, and herein lies the role that nuclear weapons may play in deterring a transition war. US-Russia relations could deteriorate, and deterrence could become more relevant if tensions build up over the establishment of missile defense in Eastern Europe and over Russian efforts to repudiate major arms-control agreements in its effort to regain its lost superpower status. As discussed in Morgan and Paul's chapter in this volume, nuclear deterrence in this context has offered the major powers greater maneuverability. It has allowed the major power states to sustain the credentials as system managers and has prevented the emergence of active security dilemmas among them that can be caused by conventional arms races and technological breakthroughs. Absent the fear of existential wars, the potentially rival states have engaged in greater economic interactions. The increasing trade relations between the United States and China and China and India, an emerging power, suggest that general nuclear deterrence may offer economic spin-off benefits. To some extent, the stability in relations among the great powers, with no war in sight between them, points to the pacifying role that nuclear weapons may be playing, although other causes are present as well. In that sense, nuclear weapons may act as crucial factors in preventing a power-transition war akin to those that the world experienced in the nineteenth and twentieth centuries. For Russia, the superpower that declined, nuclear deterrence offers an opportunity not to be excessively alarmed by the expansion of the North Atlantic Treaty Organization.

Unrestrained president key to maximize speed and flex

Izquierdo 13 (Richard, Thomas W. Smith Postdoctoral Research Associate, Department of Politics, Princeton University; B.A. Rutgers University (New Brunswick), 1995; J.D. University of Pennsylvania, 1999; M.A., Ph.D., Stanford University, 2007, 2011, “The American Presidency and the Logic of Constitutional Renewal: Pricing in Institutions and Historical Context from the Beginning” Spring, 2013, 28 J. L. & Politics 273)

II. Executive Purpose within the Constitutional Order

The Constitution institutionalizes the necessities of national governance and regime maintenance most clearly in the Office of the President of the United States. It anticipates the need to address extraordinary times by institutionalizing necessary powers within the executive branch - housing them there for resolution and substantive political meaning. As Mansfield notes,

**In its** "energy" or quickness, the executive deals more than any other branch with the accidents and force that may thwart or disturb republican choice. By dealing with such necessities, **the executive actually represents them in the Constitution**. The provision for a strong executive thus reflects a realistic recognition by the people, in ratifying the Constitution and electing a President, that emergencies will arise that may confound their choices. n24

The structural logic within the separation of powers tends to amplify presidential authority during extended periods of national crisis - up to and including specific threats to the republic's existence - **while diminishing that of the rival branches**. n25 **The President alone is the one institutional** [\*282] **actor in government, who** because of his central institutional position and the nature of his powers, n26 **can absorb a political crisis and use the opportunity to reorient national priorities**. n27 It is in this way that the presidency functions as a repository for extraordinary politics, and provides a way for the Constitution to maintain and regenerate itself without the need for a revolution. Although there has been some scholarly omission of the importance of executive power to the task of regime maintenance at the constitutional level, n28 it has proven to be one of the more indispensable features of American constitutionalism and political development. n29

A. The Institutional Orientation of the Presidency Towards the Regime

The Founders created a "constitutional government in which officials rested their power on the legally defined prerogatives of their offices and in which the claim to rule was based on the constituted political authority of the institutions." n30 Every effort was made to enable each branch "to act independently and objectively." n31 James Ceaser elaborates,

The Founders clearly understood that certain of the institutions would come closer than the others to this goal. With the possible exception of the Court, their highest expectations in this regard were for the presidency. The presidency, they thought, could be so constituted as to reach beyond the partial and selfish interests of any group within society and consult the public interest as a whole. n32

Moreover, "the Constitution sought ways to provide institutional supports for the exercise of political authority in general and executive [\*283] power in particular," which would enable the regime to maintain itself during extraordinary times through presidential leadership. n33

The President's institutional advantages in maintaining and redirecting the regime are rooted in Alexander Hamilton's articulation of "energy in the executive" in Federalist No. 70, where he described it as the "leading character in the definition of good government" n34 necessary to "preserve the Union of so large an empire." n35 Hamilton argues in favor of limitless federal powers to defend the nation,

Because it is impossible to foresee or to define the extent and variety of national exigencies, and the correspondent extent and variety of the means which may be necessary to satisfy them. **The circumstances that endanger the safety of nations are infinite**, and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed. This power ought to be coextensive with all the possible combinations of such circumstances ... . n36

As Hamilton recognizes, **the need for an energetic executive to act during emergencies locates the nature of presidential power in action**; **the President acts** - often **with initiative, purpose, direction, and** flexibility **in American government.**

For this reason, the amorphous language in Article II's vesting clause captures this dynamic succinctly by authorizing the President with "the executive Power" rather than enumerating a long list of specific formal powers. n37 Echoing Hamilton, presidential scholar David Nichols summarizes the constitutional logic of this textual provision as follows:[\*284]

The executive power ... cannot be subject to specific limitations. The executive is to execute the laws in particular circumstances, and the diversity of those circumstances is potentially unlimited. The reason for establishing an independent executive in the first place was to have a branch of government capable of exercising the discretion necessary for effective execution of the laws. n38

The need for discretion and firmness in the execution of law is a fundamental reason why governments maintain an executive despite some ambivalence or misgivings about its potential excesses in practice. n39 It was the leading Founders' confidence in George Washington's ability to effectuate these powers competently and responsibly that assured them of the new regime's viability after the Constitution's ratification by the states. n40

Hamilton's idea of "energy" was complemented by the President's independence within the separation of powers, which would give him some distance from the immediate pressures of public opinion and enable him to exercise a degree of statesmanship while in office. n41 The Constitution protected the executive's prerogatives by making him a unitary actor with a four-year term and a national constituency that independently elected him. The Brownlow Committee recognized the origins of this institutional function rather explicitly in 1937: [\*285]

It was ... not by accident but by deliberate design that the founding fathers set the American Executive in the Constitution on a solid foundation. Sad experience under the Articles of Confederation, with an almost headless Government and committee management, had brought the American Republic to the edge of ruin... . Consequently, there was grim purpose in resolutely providing for a Presidency which was to be a national office. The President is indeed the one and only national officer representative of the entire Nation. There was hesitation on the part of some timid souls in providing the President with [the powers enumerated in the Constitution] ... . But this reluctance was overcome in the face of need and a democratic executive established. n42

Contains future WMD conflicts

Johson ‘6

Karlton, Army War College, “Temporal and Scalar Mechanics of Conflict Strategic Implications of Speed and Time on the American Way of War,” http://www.dtic.mil/dtic/tr/fulltext/u2/a449394.pdf

The U.S. Army War College uses the acronym “VUCA” to describe the volatile, uncertain, chaotic and ambiguous environment in which strategy is made.4 If the present is any indication of the future, then it is reasonable to assume that the world will become increasingly dangerous as long as that strategic environment exists. Many long-range assessments predict that global tensions will continue to rise as resources become even more constrained and as transnational threats endanger international security. 5 Future leaders and planners can expect to see weak and failed states persisting to dominate U.S. foreign policy agendas. Terrorism will remain a vital interest, and the use of American military strength will remain focused on the dissuasion, deterrence, and, where necessary, the preemption of strategic conflict. Enemies will work aggressively to offset U.S. military superiority by seeking out technologies that will offer some level of asymmetric advantage, and the challenging asymmetric nature of future conflicts will add deeper complexity to both war planning and the development of national security strategy. 6 The “National Defense Strategy of the United States,” published in March 2005, addressed the unconventional nature of the future. It argued that enemies are increasingly likely to pose asymmetric threats resulting in irregular, catastrophic and disruptive challenges.7 This means that, in some cases, non-state actors will choose to attack the United States using forms of irregular warfare that may include the use of weapons of mass destruction. These actors may also seek new and innovative ways to negate traditional U.S. strengths to their advantage.8 In fact, one author theorizes that “speed of light engagements” will be the norm by the year 2025, and America may lose its monopoly on technological advances as hostile nations close the gap between technological “haves” and “have nots.”9 This type of warfare lends itself to engagements of varying speed and temporal geometry. 10 Therefore, in conflicts of the future, time and speed will matter. Consequently, it is necessary to analyze these elements with rigor and discipline in order to understand their far-reaching implications.

## deterrence

Executive war primacy key to deterrence --- prevents nuclear escalation

Waxman 14 (Matthew, Professor of Law, Columbia Law School; Adjunct Senior Fellow for Law and Foreign Policy, Council on Foreign Relations, “The Power to Threaten War” 2014, Yale Law Journal; 123:101)

A claim previously advanced from a presidentialist perspective is that **stronger** legislative **checks on war powers could be harmful to coercive and deterrent strategies**, **because they establish** easily visible impediments to the President’s authority **to follow through on threats:** legal constraints trade off with credibility. This was a common policy argument during the War Powers Resolution debates in the early 1970s. Eugene Rostow, an advocate inside and outside the government for executive primacy, remarked during consideration of legislative drafts that any serious restrictions on presidential use of force would mean in practice that “no President could make a credible threat to use force as an instrument of deterrent diplomacy, even to head off explosive confrontations.”188 He continued:

In the tense and cautious diplomacy of our present relations with the Soviet Union, as they have developed over the last twenty-five years, the authority of the President to set clear and silent limits in advance is perhaps the **most important of all the powers in our constitutional armory** to prevent confrontations that could carry nuclear implications. . . . . . . . . . . [I]t is the diplomatic power the President needs most under the circumstance of modern life—the power to make a credible threat to use force in order to prevent a confrontation which might escalate.189 In his veto statement on the War Powers Resolution, President Nixon echoed these concerns, arguing that the law would **undermine the credibility of U.S. deterrent and coercive threats in the eyes of both adversaries and allies**—they would know that presidential authority to use force would expire after sixty days, so absent strong congressional support they could assume U.S. withdrawal at that point.190

In short, those who oppose tying the president’s hands with mandatory congressional authorization requirements to use force sometimes argue that doing so incidentally and dangerously ties his hands in threatening it. Their position assumes that presidential flexibility **to act militarily**, preserved in legal doctrine, **enhances the credibility of presidential threats to escalate.**

Key to prevent Asian war

Waxman 14 (Matthew, Professor of Law, Columbia Law School; Adjunct Senior Fellow for Law and Foreign Policy, Council on Foreign Relations, “The Power to Threaten War” 2014, Yale Law Journal; 123:101)

Although the Obama Administration pulled back from this rhetoric and placed greater emphasis on international institutions, it has continued to rely on **threatened force as a key pillar of its strategy** **with regard to deterring adversaries (such as** aggressive Iranian moves**)**, intervening in humanitarian crises (as in Libya), and reassuring allies.112 **With regard to East Asia**, for example, **the credible threat of U.S. military force is a significant element of U.S. strategy for** deterring Chinese and North Korean aggression **as well as reassuring other Asian powers of U.S. protection,** to avert a destabilizing arms race.113 In justifying possible military force against Syria in response to its government’s use of chemical weapons, President **Obama emphasized the credible threat of U.S. military action as necessary to dissuade states and terrorist organizations from** acquiring or using WMD.114

#### Extinction

**Campbell et al 8** (Kurt M, Assistant Secretary of State for East Asian and Pacific Affairs, Dr. Campbell served in several capacities in government, including as Deputy Assistant Secretary of Defense for Asia and the Pacific, Director on theNational Security Council Staff, previously the Chief Executive Officer and co-founder of the Center for a New American Security (CNAS), served as Director of the Aspen Strategy Group and the Chairman of the Editorial Board of the Washington Quarterly, and was the founder and Principal of StratAsia, a strategic advisory company focused on Asia, rior to co-founding CNAS, he served as Senior Vice President, Director of the International Security Program, and the Henry A. Kissinger Chair in National Security Policy at the Center for Strategic and International Studies, doctorate in International Relation Theory from Oxford, former associate professor of public policy and international relations at the John F. Kennedy School of Government and Assistant Director of the Center for Science and International Affairs at Harvard University, member of Council on Foreign Relations and  International Institute for Strategic Studies, “The Power of Balance: America in iAsia” June 2008, <http://www.cnas.org/files/documents/publications/CampbellPatelSingh_iAsia_June08.pdf>)

Asian *investment* is also at record levels. Asian countries lead the world with unprecedented infra­structure projects. With over $3 trillion in foreign currency reserves, Asian nations and businesses are starting to shape global economic activity. Indian firms are purchasing industrial giants such as Arcelor Steel, as well as iconic brands of its once-colonial ruler, such as Jaguar and Range Rover. China’s Lenovo bought IBM’s personal computer We call the transformations across the Asia-Pacific the emergence of “iAsia” to reflect the adoption by countries across Asia of fundamentally new stra­tegic approaches to their neighbors and the world. Asian nations are pursuing their interests with real power in a period of both tremendous potential and great uncertainty. iAsia is: *Integrating:* iAsia includes increasing economic interdependence and a flowering of multinational forums to deal with trade, cultural exchange, and, to some degree, security. *Innovating:* iAsia boasts the world’s most successful manufacturing and technology sectors and could start taking the lead in everything from finance to nanotech to green tech. *Investing:* Asian nations are developing infrastruc­ture and human capital at unprecedented rates. But the continent remains plagued by: Insecurity: Great-power rivalry is alive in Asia. Massive military investments along with historic suspicions and contemporary territorial and other conflicts make war in Asia plausible. Instability: From environmental degradation to violent extremism to trafficking in drugs, people, and weapons, Asian nations have much to worry about. *Inequality:* Within nations and between them, inequality in Asia is more stark than anywhere else in the world. Impoverished minorities in countries like India and China, and the gap in governance and capacity within countries, whether as back­ward as Burma or as advanced as Singapore, present unique challenges. A traditional approach to Asia will not suffice if the United States is to both protect American interests and help iAsia realize its potential and avoid pitfalls. business and the Chinese government, along with other Asian financial players, injected billions in capital to help steady U.S. investment banks such as Merrill Lynch as the American subprime mortgage collapse unfolded. Chinese investment funds regional industrialization, which in turn creates new markets for global products. Asia now accounts for over 40 percent of global consumption of steel 4 and China is consuming almost half of world’s available concrete. 5 Natural resources from soy to copper to oil are being used by China and India at astonishing rates, driving up commodity prices and setting off alarm bells in Washington and other Western capitals. Yet Asia is not a theater at peace. On average, between 15 and 50 people die every day from causes tied to conflict, and suspicions rooted in rivalry and nationalism run deep. The continent harbors every traditional and non-traditional challenge of our age: it is a cauldron of religious and ethnic tension; a source of terror and extrem­ism; an accelerating driver of the insatiable global appetite for energy; the place where the most people will suffer the adverse effects of global climate change; the primary source of nuclear proliferation; and the most likely theater on Earth for a major conventional confrontation and even a nuclear conflict. Coexisting with the optimism of iAsia are the ingredients for internal strife, non-traditional threats like terrorism, and traditional interstate conflict, which are all magnified by the risk of miscalculation or poor decision-making.

## I/L nuke terror

4th gen key to defeating AQ—prevents nuclear terror

Barno ‘6

David, retired Lieutenant General of the United States Army. He was head of Combined Forces Command-Afghanistan from 2003–2005, “Challenges in Fighting a

Global Insurgency,” http://strategicstudiesinstitute.army.mil/pubs/parameters/Articles/06summer/barno.pdf

Strategy in a global counterinsurgency requires a **new level of thinking**. A world of irregular threats and asymmetrical warfare demands that we broaden our thinking beyond the norms of traditional military action once sufficient to win our wars. The focus of this global insurgency of violent Islamist extremism exploits the concepts of Fourth Generation Warfare with a calculated assault on perceptions at home, on our decisionmakers and on the public. In a war of intelligence and a war of perceptions, we grapple to understand how to best devise a war-winning strategy given the predominantly conventional warfighting tools in our military toolbox—and our vulnerabilities outside the military sphere. Realities are that an unbroken series of tactical military victories in today’s war, the primary focus of our Army and Marine Corps, will not assure strategic success, yet our conventional military organizations and service cultures seem increasingly tactical. An effective strategy does not result from the aggregate of an unlimited number of tactical data points. Commanders assert, “We simply cannot be defeated militarily in this war.” That may be true, but this statement masks the fact that we can potentially be defeated by other than purely military means. How big is our concept of war? With our enemies committed to an unlimited war of unlimited means—a**l** Q**aeda will clearly use a nuclear weapon against the** U**nited** S**tates if it gains the means**—how can we continue to regard this fight as a limited war and keep our focus chiefly on accumulating an unbroken series of battlefield tactical successes which we somehow think will collectively deliver victory? How do we justify our military services’institutional fixation with accruing more and more tactical capability in the face of an enemy which places no value on tactical engagements except to achieve his strategic and political objectives? Where do we best invest our future defense dollars to gain leverage over this new “global insurgent,” an enemy with no tanks, no air force, no navy, and no satellites? What type of provocation will it take for Americans to fully commit to a “long war” against an enemy who is engaged in a war without limits against us? And what does an all-out “long war” mean for America within the ethical and moral values of our nation in the 21st century? Many of these questions are beyond the scope of this article, but they point to the complex dimensions of understanding the nature of the war we fight today—a Fourth Generation War—and the means required for us to win. As a military charged with fighting this new type of war, a global insurgency, we must better grasp ownership of the fight. In some sense, as society’s trustee in the conduct of our nation’s wars, we must accept the full range of war, tactical to strategic level. After all, winning wars—and preventing them—are the only reasons our military exists. If we as a nation or a member of a coalition are ultimately defeated by our enemies, the reasons for that defeat—whether military, political, or economic—will be far less important than the result. We must more fully leverage all the intellectual as well as physical capabilities inside our military to assure such a defeat remains unthinkable. We need to contribute more directly toward a comprehensive strategy leading to long-term victory. Battlefield victories result from good tactics, training, and leadership; strategic victories result from thinking through the right strategy and executing it aggressively. Our military should be the repository of the deepest reservoirs of strategic thinking on winning our wars—of any type. But for our military to deny that an asymmetric defeat at the strategic level is even possible in this unconventional war is the equivalent of burying our heads in the sand and increases our risk. While protecting against tactical or operational-level defeat on the battlefields of Iraq and Afghanistan, our military needs to also guard against the dangers of strategic-level defeat. This is not just “someone else’s problem.” We need to understand the nature of the war we are fighting, and we need to avoid the temptation to define our war as the tactical battle we would like to fight rather than the strategic fight we are in with a thinking enemy who strikes daily at our national political will here at home. The military’s role in addressing this asymmetrical “war of wills” is hyper-sensitive. This predicament is a very real problem inherent in 21stcentury warfare, and the military needs to understand and support the civilian leadership in defending this flank. Bipartisan recognition and defense of this Achilles’ heel is also necessary to deprive our enemies of its effect. America’s military contribution needs to evolve toward designing a war-winning series of campaigns and, perhaps even more important, helping our civilian leadership to craft the broad political-military grand strategy necessary to succeed against a dangerous and resourceful enemy in this “long war.” We as a military must fully understand, accept, and take ownership of “war-winning” as well as “war-fighting” if we are to fulfill our role in defending the society we are pledged to serve. If this conflict is truly a “long war” against violent global extremism, against an ideology of hate and destruction as dangerous as fascism in the 1930s and communism in the 1950s, then we as a military have to take on the institutional and intellectual challenges to fight and to win this very different war against a determined and dangerous enemy.

## Terror

#### Likely most qualified flips econ

Tobey 14 (William Tobey is a senior fellow at Harvard University's Belfer Center for Science and International Affairs. Major General Pavel Zolotarev is a retired member of the Russian Armed Forces and deputy director of the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences., 1/13/2014, "The Nuclear Terrorism Threat", belfercenter.ksg.harvard.edu/files/nuclearterrorismthreatthailand2014.pdf)

A joint U.S.-Russian View q  First ever U.S.-Russian joint threat assessment q  Concludes the danger is real, urgent action is needed to reduce it q  Endorsed by broad range of retired military, intelligence experts Could terrorists cause a “security Fukushima”? q  Fukushima caused by inadequate preparation and an extraordinary natural disaster q  Reaffirmed that a nuclear accident can cause extraordinary terror, disruption, and cost q Al Qaeda, Chechens, and other terrorist groups have considered sabotaging nuclear reactors. Nuclear safety and security are closely linked – you can’t be safe without being secure. Cs-137 “dirty bomb” q  Potentially dangerous sources used in hospitals, industry, in almost every country q Al Qaeda, Chechens have repeatedly considered dirty bomb attacks With nuclear material, terrorists may be able to make crude nuclear bombs q With HEU, gun-type bomb – as obliterated Hiroshima – very plausibly within capabilities of sophisticated terrorist group q  Implosion bomb (required for plutonium) more difficult, still conceivable (especially if they got help) –  Doesn’t need to be as complex as Nagasaki bomb Source: NATO Doesn’t take a Manhattan Project -- >90% of the effort was focused on producing nuclear material. And making a crude terrorist bomb is far easier than making a safe, reliable weapon With nuclear material, terrorists may be able to make crude nuclear bombs (II) q Government studies – in the United States and elsewhere – have repeatedly concluded that a sophisticated terrorist group could plausibly make a nuclear bomb. “A small group of people, none of whom have ever had access to the classified literature, could possibly design and build a crude nuclear explosive device... Only modest machine-shop facilities that could be contracted for without arousing suspicion would be required.” -- U.S. Office of Technology Assessment, 1977 q U.S. security rules for some types of material based on preventing adversaries from setting off a nuclear blast while they are still in the building Al Qaeda has actively sought to get nuclear bombs q  Repeated attempts to purchase nuclear material or nuclear weapons q  Repeated attempts to recruit nuclear expertise q  Focused program that reported directly to Zawahiri q  Reached the point of carrying out crude (but sensible) explosive tests for the nuclear program in the Afghan desert Al Qaeda has actively sought to get nuclear bombs (II) q  2001: Bin Laden and Zawahiri meet with 2 senior Pakistani nuclear scientists to discuss nuclear weapons -  Now-sanctioned UTN network was helping with chemical, biological, nuclear efforts – also offered nuclear weapons technology to Libya q  2003: -  bin Laden gets fatwa from radical Saudi cleric authorizing use of nuclear weapons against civilians -  Saudi al Qaeda cell negotiating to buy 3 nuclear devices – if “Pakistani expert” confirms they are real q  2008: Zawahiri reiterates, elaborates arguments of nuclear fatwa North Caucasus terrorists have pursued nuclear and radiological terrorism q Multiple cases: –  2 cases of teams carrying out reconnaissance at nuclear weapon storage sites – 2 more on nuclear weapon transport trains –  Repeated threats to attack nuclear reactors – terrorists who seized Moscow theater in 2002 considered seizing reactor at the Kurchatov Institute –  Repeated threats to use radiological “dirty bombs” – buried Cs-137 source in Moscow park –  Captured documents indicate plan to seize a Russian nuclear submarine (possibly with nuclear weapons on board) Aum Shinrikyo sought nuclear weapons before its nerve gas attacks q Aum’s efforts –  Cult leader Shoko Asahara was obsessed with nuclear weapons –  Repeated shopping trips to former Soviet Union – acquired wide range of conventional weapons, recruited thousands of followers, sought to buy nuclear weapons and materials –  Purchased farm in Australia, stole enrichment documents – idea to mine, enrich its own uranium –  Turned to chemical and biological weapons when nuclear proved too slow –  No intelligence agency was aware of their nuclear, biological, or chemical work until after nerve gas attacks Has the threat disappeared? q  Bin Laden dead, core al Qaeda profoundly disrupted, key North Caucasus terrorist leaders killed q Nuclear security is substantially improved at many sites – many sites have no weapons-usable material left q  But: —  al Qaeda has proved resilient – could resurge —  “Emirate Kavkaz” terrorists in North Caucasus strengthening –  Other groups have pursued nuclear weapons as well – with 2-3 groups having gone the nuclear path in last 15 years, cannot expect they will be the last –  Intent is enduring; capability may increase as technology spreads; strong nuclear security needed to remove opportunity –  The problem of nuclear terrorism and the need for nuclear security will be with us for decades – no room for complacency The scale of the catastrophe q  Tens of thousands killed; tens of thousands more burned, injured, irradiated –  Radioactive fallout would require large-scale evacuation q  Terrorists may claim they had more bombs hidden in cities, threaten to detonate them unless their demands were met –  Potential for widespread panic, flight from major cities, resulting economic and social chaos q Huge pressure on leaders of attacked state to take any action necessary to prevent further attacks – and to retaliate –  Effects on international affairs likely far larger than 9/11 Notions of sovereignty and civil liberties may be radically altered – every state’s behavior affects every other Nuclear terrorism anywhere would be a global catastrophe q Not just a risk to the United States q  Economic, political, military consequences would reverberate worldwide –  Likely shut-down of much of world trade, for a period “Were such an attack to occur, it would not only cause widespread death and destruction, but would stagger the world economy and thrust tens of millions of people into dire poverty…. [A]ny nuclear terrorist attack would have a second death toll throughout the developing world.” – Kofi Annan, “A Global Strategy for Fighting Terrorism,” March 10, 2005 q  Political consequences would doom prospects for large-scale nuclear growth, putting nuclear industry at risk Insecure nuclear material anywhere is a threat to everyone, everywhere.

#### Mearsheimer's a hack, he underestimates the risk

Adesnik 14

David Adesnik is a visiting fellow at the Marilyn Ware Center for Security Studies at the American Enterprise Institute (AEI), where he works on isolationism, national security strategy, and democracy promotion, National Interest, January 12, 2014, "Realism vs. Reality", http://nationalinterest.org/commentary/realism-vs-reality-9694?page=show

John Mearsheimer is not especially worried about terrorism. It is only “a minor threat”. The attacks of September 11th may have been spectacular, but “did not cripple the United States.” Besides, another attack of that magnitude is “highly unlikely”. Even “nuclear terrorism, in short, is not a serious threat.” Mearsheimer writes that “significant obstacles” face any organization seeking to procure fissile material and weaponize it. Finally, he does not even break a sweat when considering that an unstable nuclear regime may lose control of its arsenal. Yes, he admits, “Political turmoil in a nuclear-armed state could in theory allow terrorists to grab a loose nuclear weapon, but the United States already has detailed plans to deal with that highly unlikely contingency.” This blithe confidence in the marginal relevance of terrorism is essential to Mearsheimer’s main argument, that “what happens [in Egypt and Syria] is of little importance for American security”; furthermore, US exaggeration of these countries’ significance reflects a fearful American mindset that detects dire threats “in every nook and cranny of the globe.” Yet if one pulls on the loose threads in Mearsheimer’s stance on terrorism, the logic of his essay begins to unravel.

It is striking that Prof. Mearsheimer’s comfort with loose nukes rests on his faith in “detailed” US planning for intervention in failed or failing states, which he tends to dismiss as futile. Perhaps he imagines that securing such weapons will entail nothing more than a series of commando raids, like the one that resulted in the death of Osama bin Laden. Yet what if a failed state, say Pakistan in 2020, has dozens or hundreds of nuclear caches to secure? The US mission may entail a sizable intervention, including a prolonged counterinsurgency campaign, perhaps with a measure of the “social engineering” that Mearsheimer dreads. The value of being prepared for such a campaign is not something he can accept. Previously, he has described American interventions in Iraq and Afghanistan not just as failures, but as “unwinnable.”[1] This absolutism may be rhetorical excess, but Mearsheimer has argued that favorable conditions for counterinsurgency are so rare that it is practically impossible for the benefits to outweigh the costs.[2]

Of course, US intervention in Syria – for now a dead letter – was unlikely to involve boots on the ground. Instead it could’ve followed the pattern of Kosovo and Libya, where US and allied air power provided a decisive advantage to indigenous rebel forces. In Syria, the US had the opportunity to remove a tyrant who was a critical asset for both Iran and Hezbollah. Yet Mearsheimer insists “If anything, intervention [in Syria or Egypt] is likely to make a bad situation worse.” He then cites “America’s dismal record in Iraq, Afghanistan and Libya.” Yet in Libya, we prevented a horrific massacre and ousted Muammar Qaddafi, while leaving behind an admittedly unstable situation. In Afghanistan, Mearsheimer actually called for an end to the US air war in mid-November 2001, arguing instead for a campaign of “bribery [and] covert action” making “the fullest use of Pakistani intelligence and influence.” Why? Because the Northern Alliance was unreliable, the Taliban elusive and Afghan nationalism would ensure an unwelcome reception in Kabul.[3] He was wrong on every point. Without reference to his earlier prediction, Mearsheimer later admitted, “Sometimes it is easy to eliminate hostile regimes, as the US did in Afghanistan.”[4] Of course, American blundering can make things worse. After four years of inattention, the Taliban re-emerged and became a serious menace. In Iraq, a lethal insurgency emerged within months of the US invasion. Only after four agonizing years did the Coalition employ an effective strategy against the insurgents backed by sufficient manpower. Within months, violence plummeted. Yet as late as 2011, Mearsheimer insisted, “the surge has not been a success,” because of ongoing political instability.[5] Ironically, the melting away of American gains in Iraq is attributable in no small part to a President who shared Prof. Mearsheimer’s revulsion at the war itself and refused to leave behind a stabilizing force to maintain leverage over the Maliki government.

To understand why Mearsheimer cannot countenance American “meddling” in other nations’ politics, it’s necessary to place “America Unhinged” within the context of Mearsheimer’s extensive theoretical writing. He identifies himself as a “structural” or “neo-” realist, meaning that he considers states to be the fundamental units in world politics and seeks explanations for their behavior based on their material power relative to other states. Hence, the ideas that guide a state’s leadership are effectively irrelevant, since the state’s interests are determined by the balance of power. Thus Mearsheimer can write with brio, “It does not matter much who is in charge in Cairo or Damascus.” To make such a position plausible, for Syria in particular, Mearsheimer must downplay the threat of terrorism, especially nuclear. Yet in 2006, he stated that nuclear terrorism “is clearly the greatest threat now facing the United States.”[6] Discomfited by the unpleasant facts of the Syrian civil war, Prof. Mearsheimer contradicts himself in order to save his theory and justify his politics.

Such tensions illustrate how Mearsheimer’s unrelenting commitment to structural realism prevents him from being the kind of realist who sees the world as it really is. While realists are emphatic about the dangers of ideological thinking – especially the dangers of American Exceptionalism – the irony is that Mearsheimer’s own structural realism has fitted him with a set of ideological blinders. Within academia, Mearsheimer is infamous for his prediction that after the Cold War, the nation-states of Europe would return to their 19th century practice of aggressive power balancing, rather than progressing toward a peaceful union. While most realists have written off that failure, Mearsheimer can’t bring himself to admit that new ideas about European identity are what prevent further wars between Britain, France, Germany, and their neighbors. In his keynote address to a gathering of European scholars, Mearsheimer even insisted his prediction cannot truly be tested “until US troops are pulled completely out of Europe and NATO is disbanded.”[7]

Meanwhile, even those realists with structuralist leanings have recognized the lessons of 9/11 regarding failed states and non-state actors. According to a 2002 article in International Security, “if Afghanistan had been governed by a more capable and moderate regime over the past decade, bin Laden would not have found sanctuary there…The danger that some failed states pose remind us that unresolved conflicts are always a potential danger…Thus helping to settle protracted civil conflicts is not merely good for the world in general, it can also make the United States safer.”[8] Thus wrote Stephen Walt, Mearsheimer’s frequent co-author and fellow critic of the “foreign penetration” of American policymaking by ethnic lobbies.[9] If Prof. Mearsheimer finds his colleague’s arguments persuasive, he ought to reconsider his view that, in the Mideast, “only the oil-producing states of the Persian Gulf are of marked strategic importance.” In fact, he (and perhaps Prof. Walt) may want to send a brief note of thanks to the Israeli armed forces, whose 2007 destruction of the al-Kibar nuclear reactor prevented nuclear materials from spilling onto Syrian battlefields today. Unless, of course, Mearsheimer prefers to stand by the assertion that America’s “detailed plans” would have nimbly resolved such a nightmare.

## Bio

Bioterror causes extinction

Mhyrvold 13 (Nathan, Began college at age 14, BS and Masters from UCLA, Masters and PhD, Princeton “Strategic Terrorism: A Call to Action,” Working Draft, The Lawfare Research Paper Series Research paper NO . 2 – 2013)

As horrible as this would be, such a pandemic is by no means the worst attack one can imagine, for several reasons. First, most of the classic bioweapons are based on 1960s and 1970s technology because the 1972 treaty halted bioweapons development efforts in the United States and most other Western countries. Second, the Russians, although solidly committed to biological weapons long after the treaty deadline, were never on the cutting edge of biological research. Third and most important, the science and technology of molecular biology have made enormous advances, utterly transforming the field in the last few decades. High school biology students routinely perform molecular-biology manipulations that would have been impossible even for the best superpower-funded program back in the heyday of biological-weapons research. The biowarfare methods of the 1960s and 1970s are now as antiquated as the lumbering mainframe computers of that era. Tomorrow’s terrorists will have vastly more deadly bugs to choose from.

Consider this sobering development: in 2001, Australian researchers working on mousepox, a nonlethal virus that infects mice (as chickenpox does in humans), accidentally discovered that a simple genetic modification transformed the virus.10, 11 Instead of producing mild symptoms, the new virus killed 60% of even those mice already immune to the naturally occurring strains of mousepox. The new virus, moreover, was unaffected by any existing vaccine or antiviral drug. A team of researchers at Saint Louis University led by Mark Buller picked up on that work and, by late 2003, found a way to improve on it: Buller’s variation on mousepox was 100% lethal, although his team of investigators also devised combination vaccine and antiviral therapies that were partially effective in protecting animals from the engineered strain.12, 13 Another saving grace is that the genetically altered virus is no longer contagious. Of course, it is quite possible that future tinkering with the virus will change that property, too. Strong reasons exist to believe that the genetic modifications Buller made to mousepox would work for other poxviruses and possibly for other classes of viruses as well. Might the same techniques allow chickenpox or another poxvirus that infects humans to be turned into a 100% lethal bioweapon, perhaps one that is resistant to any known antiviral therapy? I’ve asked this question of experts many times, and no one has yet replied that such a manipulation couldn’t be done. This case is just one example. Many more are pouring out of scientific journals and conferences every year. Just last year, the journal Nature published a controversial study done at the University of Wisconsin–Madison in which virologists enumerated the changes one would need to make to a highly lethal strain of bird flu to make it easily transmitted from one mammal to another.14 Biotechnology is advancing so rapidly that it is hard to keep track of all the new potential threats. Nor is it clear that anyone is even trying. In addition to lethality and drug resistance, many other parameters can be played with, given that the infectious power of an epidemic depends on many properties, including the length of the latency period during which a person is contagious but asymptomatic. Delaying the onset of serious symptoms allows each new case to spread to more people and thus makes the virus harder to stop. This dynamic is perhaps best illustrated by HIV , which is very difficult to transmit compared with smallpox and many other viruses. Intimate contact is needed, and even then, the infection rate is low. The balancing factor is that HIV can take years to progress to AIDS , which can then take many more years to kill the victim. What makes HIV so dangerous is that infected people have lots of opportunities to infect others. This property has allowed HIV to claim more than 30 million lives so far, and approximately 34 million people are now living with this virus and facing a highly uncertain future.15 A virus genetically engineered to infect its host quickly, to generate symptoms slowly—say, only after weeks or months—and to spread easily through the air or by casual contact would be vastly more devastating than HIV . It could silently penetrate the population to unleash its deadly effects suddenly. This type of epidemic would be almost impossible to combat because most of the infections would occur before the epidemic became obvious. A technologically sophisticated terrorist group could develop such a virus and kill a large part of humanity with it. Indeed, terrorists may not have to develop it themselves: some scientist may do so first and publish the details. Given the rate at which biologists are making discoveries about viruses and the immune system, at some point in the near future, someone may create artificial pathogens that could drive the human race to extinction. Indeed, a detailed species-elimination plan of this nature was openly proposed in a scientific journal. The ostensible purpose of that particular research was to suggest a way to extirpate the malaria mosquito, but similar techniques could be directed toward humans.16 When I’ve talked to molecular biologists about this method, they are quick to point out that it is slow and easily detectable and could be fought with biotech remedies. If you challenge them to come up with improvements to the suggested attack plan, however, they have plenty of ideas. Modern biotechnology will soon be capable, if it is not already, of bringing about the demise of the human race— or at least of killing a sufficient number of people to end high-tech civilization and set humanity back 1,000 years or more. That terrorist groups could achieve this level of technological sophistication may seem far-fetched, but keep in mind that it takes only a handful of individuals to accomplish these tasks. Never has lethal power of this potency been accessible to so few, so easily. Even more dramatically than nuclear proliferation, modern biological science has frighteningly undermined the correlation between the lethality of a weapon and its cost, a fundamentally stabilizing mechanism throughout history. Access to extremely lethal agents—lethal enough to exterminate Homo sapiens—will be available to anybody with a solid background in biology, terrorists included.